

Exhibit 8

HERSH - CONFIDENTIAL

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

Civil Action No. 1:18-cv-00681-RJL

Hon. Richard J. Leon

AARON RICH,

Plaintiff,

v.

EDWARD BUTOWSKY, MATTHEW COUCH and

AMERICA FIRST MEDIA,

Defendants.

ORAL DEPOSITION OF

SEYMOUR M. HERSH

TAKEN REMOTELY BY VIDEO CONFERENCE

July 15, 2020

Reported by: Mary Ann Payonk

Job No. 181204

<p>Page 2</p> <p>HERSH - CONFIDENTIAL</p> <p>July 15, 2020</p> <p>9:42 a.m.</p> <p>Oral deposition of SEYMOUR M. HERSH</p> <p>taken remotely by video conference pursuant to</p> <p>Notice and agreement of counsel, reported</p> <p>stenographically by Mary Ann Payonk, Shorthand</p> <p>Reporter and Notary Public of the District of</p> <p>Columbia, Commonwealth of Virginia, and State</p> <p>of New York, California CSR No. 13431.</p>	<p>Page 3</p> <p>HERSH - CONFIDENTIAL</p> <p>APPEARANCES:</p> <p>ON BEHALF OF PLAINTIFF AARON RICH:</p> <p>EDEN QUANTON, ESQ.</p> <p>QUANTON LAW</p> <p>1001 Avenue of the Americas</p> <p>New York, New York 10018</p> <p>ON BEHALF OF DEFENDANTS MATTHEW COUCH and</p> <p>AMERICA FIRST MEDIA:</p> <p>MERYL GOVERNSKI, ESQ.</p> <p>ERICA SPEVACK, ESQ.</p> <p>BOIES SCHILLER FLEXNER</p> <p>1401 New York Avenue, N.W.</p> <p>Washington, D.C. 20005</p> <p>MICHAEL GOTTLIEB, ESQ.</p> <p>WILLKIE FARR & GALLAGHER</p> <p>1875 K Street, N.W.</p> <p>Washington, D.C. 20006</p>
<p>Page 4</p> <p>HERSH - CONFIDENTIAL</p> <p>Appearances (Cont'd.):</p> <p>ON BEHALF OF THE WITNESS:</p> <p>CHAD BOWMAN, ESQ.</p> <p>BALLARD SPAHR</p> <p>1909 K Street, N.W.</p> <p>Washington, D.C. 20006</p> <p>ALSO IN ATTENDANCE:</p> <p>Lem Lattimer, Legal Video Specialist</p>	<p>Page 5</p> <p>HERSH - CONFIDENTIAL</p> <p>THE VIDEOGRAPHER: Good morning,</p> <p>counselors. My name is Lem Lattimer. I</p> <p>am a legal videographer in association</p> <p>with TSG Reporting. Due to the severity</p> <p>of COVID-19, and following the practice</p> <p>of social distancing, I will not be in</p> <p>the same room with the witness; instead,</p> <p>I will record this videotaped deposition</p> <p>remotely. The reporter, Mary Ann</p> <p>Payonk, also will not be in the same</p> <p>room and will swear the witness in</p> <p>remotely. Do all parties stipulate to</p> <p>the validity of this video recording and</p> <p>remote swearing, and that it will be</p> <p>admissible in the courtroom as if it had</p> <p>been taken following Rule 30 of the</p> <p>Federal Rules of Civil Procedures and</p> <p>the state's rules where this case is</p> <p>pending?</p> <p>MR. QUANTON: I do.</p> <p>THE VIDEOGRAPHER: Thank you.</p> <p>THE REPORTER: Ma'am, I need your</p> <p>agreement.</p> <p>MS. GOVERNSKI: Oh, it just took me</p>

<p style="text-align: right;">Page 6</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 a while to find the unmute. I do.</p> <p>3 THE REPORTER: Thank you.</p> <p>4 MR. BOWMAN: The witness also</p> <p>5 stipulates.</p> <p>6 THE REPORTER: Thank you.</p> <p>7 THE VIDEOGRAPHER: This is the</p> <p>8 start of media labeled number 1 of the</p> <p>9 video-recorded deposition of Seymour</p> <p>10 Hersh in the matter of Aaron Rich versus</p> <p>11 Edward Butowsky, et al. on July 15,</p> <p>12 2020, at approximately 9:42 a.m. All</p> <p>13 appearances are noted on the record.</p> <p>14 Will the court reporter please swear in</p> <p>15 the witness.</p> <p>16 (The witness was sworn.)</p> <p>17 MR. QUANTON: This is Eden</p> <p>18 Quainton, and just one preliminary point</p> <p>19 is we had a brief discussion among</p> <p>20 counsel before the witness was sworn in,</p> <p>21 and we agreed that opposing counsel and</p> <p>22 counsel for the witness would -- would</p> <p>23 have a standing objection as to form</p> <p>24 questions. Of course, if they interject</p> <p>25 with objections, that's -- that's not a</p>	<p style="text-align: right;">Page 7</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 problem, but all objects as to form will</p> <p>3 be preserved. I offer that, and</p> <p>4 Ms. Governski, Mr. Bowman, if that's</p> <p>5 acceptable to proceed so that your</p> <p>6 objections as to form would not be</p> <p>7 waived by your failure to assert any</p> <p>8 objection during the deposition.</p> <p>9 MS. GOVERNSKI: This is Meryl</p> <p>10 Governski. I -- I appreciate that and</p> <p>11 agree. I also, just so that the record</p> <p>12 is clear, should state that my</p> <p>13 colleagues Michael Gottlieb with Willkie</p> <p>14 Farr and Erica Spevack with Boies</p> <p>15 Schiller, both on behalf of plaintiff,</p> <p>16 also are joined via the audio.</p> <p>17 MR. BOWMAN: This is Chad Bowman on</p> <p>18 behalf of the witness. We also agree.</p> <p>19 And in the interest of saving time also,</p> <p>20 to the extent that during the deposition</p> <p>21 I assert an objection under the</p> <p>22 reporter's privilege, I'm referring to</p> <p>23 DC Code Section, DC shield law Code</p> <p>24 Section 16-4702 as well as the privilege</p> <p>25 under the First Amendment of the</p>
<p style="text-align: right;">Page 8</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 US Constitution and the common law. So</p> <p>3 rather than say that every time, I'll</p> <p>4 just say journalist's privilege.</p> <p>5 MR. QUANTON: Okay.</p> <p>6 SEYMOUR M. HERSH,</p> <p>7 called as a witness, having been duly</p> <p>8 sworn, was examined and testified as</p> <p>9 follows:</p> <p>10 EXAMINATION</p> <p>11 BY MR. QUANTON:</p> <p>12 Q. Mr. Hersh, good morning.</p> <p>13 A. Hi.</p> <p>14 Q. Thank you for taking the time to be</p> <p>15 at this deposition this morning. My name, as</p> <p>16 you heard, is Eden Quainton, and I represent</p> <p>17 the defendants in this case, Edward Butowsky</p> <p>18 and Matthew Couch.</p> <p>19 Let me just say as a preliminary</p> <p>20 matter if at any time, Mr. Hersh, you would</p> <p>21 like to take a break, you're feeling</p> <p>22 uncomfortable or you need a bathroom break or a</p> <p>23 water break or whatever it might be, don't</p> <p>24 hesitate. And that goes for counsel as well.</p> <p>25 And I'll -- I'll follow that myself. If I feel</p>	<p style="text-align: right;">Page 9</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 the need to stop for a few minutes, I'll ask</p> <p>3 that we go off the record. Please don't</p> <p>4 hesitate, and be as comfortable as you can. As</p> <p>5 you see, I took off my tie because I wanted to</p> <p>6 be as comfortable as possible. So that's what</p> <p>7 I'd encourage you to do as well.</p> <p>8 Mr. Hersh, I -- you're here pursuant</p> <p>9 to a subpoena that was sent to you by the</p> <p>10 defendant, Edward Butowsky; is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. And have you this morning taken any</p> <p>13 drugs or alcohol or any mood-altering</p> <p>14 substances that would affect your ability to</p> <p>15 testify truthfully and accurately?</p> <p>16 A. No.</p> <p>17 Q. Are you on any kind of a medication,</p> <p>18 a pain medication or any other kind of</p> <p>19 medication that might affect your ability to</p> <p>20 testify truthfully and accurately?</p> <p>21 A. No.</p> <p>22 Q. Now, I understand that you're --</p> <p>23 you're an avid tennis player. Is that -- is</p> <p>24 that true?</p> <p>25 A. Lousy, but avid.</p>

<p style="text-align: right;">Page 10</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 Q. Have you been able to get exercise</p> <p>3 during the -- the COVID period?</p> <p>4 A. It's -- it's really not relevant,</p> <p>5 counselor. The answer's yes.</p> <p>6 Q. Oh, good. And you -- you feel active</p> <p>7 physically and -- and mentally as you -- as you</p> <p>8 come to this deposition today?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Mr. Hersh, could you just briefly</p> <p>11 describe for me your educational and</p> <p>12 professional background?</p> <p>13 A. Graduate of the University of</p> <p>14 Chicago, period. Been a journalist for -- I</p> <p>15 guess since 1960. That would make it, what, 50</p> <p>16 years? 60 years? Something like that. There</p> <p>17 you go.</p> <p>18 Q. Okay. And you -- could you just</p> <p>19 maybe say a little bit more about your</p> <p>20 professional background in terms of where</p> <p>21 you -- where you began the -- some of the</p> <p>22 organizations that you were with and then how</p> <p>23 you've pursued your -- pursued your career over</p> <p>24 the last 15, 20 years?</p> <p>25 A. Police reporter in Chicago, worked</p>	<p style="text-align: right;">Page 11</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 for wire services, worked for the New York</p> <p>3 Times, the New Yorker, pretty much been on my</p> <p>4 own for two or three decades.</p> <p>5 THE REPORTER: If I could stop and</p> <p>6 respectfully ask the witness to be still</p> <p>7 in his chair. You're moving back and</p> <p>8 forth, and it's showing. Thank you.</p> <p>9 THE WITNESS: I'll do the best I</p> <p>10 can.</p> <p>11 THE REPORTER: Thank you.</p> <p>12 BY MR. QUANTON:</p> <p>13 Q. And let me -- let me just say,</p> <p>14 Mr. Hersh, I'm sure you -- this is not going to</p> <p>15 be a surprise to you, but I am a personal</p> <p>16 admirer of yours and personal admirer of -- of</p> <p>17 your reporting and so I, just as a -- a</p> <p>18 personal event, I'm honored that you're here</p> <p>19 talking to us today.</p> <p>20 Now, as to your reporting practice, I</p> <p>21 understand that you -- you delete your emails</p> <p>22 on a regular basis with various people that</p> <p>23 you -- that you talk to; is that -- is that</p> <p>24 correct?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 12</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 Q. Do you preserve any emails that you</p> <p>3 may have with sources or other individuals that</p> <p>4 would be relevant to -- to stories you're</p> <p>5 working on?</p> <p>6 A. I print out certain ones that are</p> <p>7 relevant to what I'm doing professionally, but</p> <p>8 almost all the other stuff I delete</p> <p>9 permanently.</p> <p>10 Q. And do you preserve notes of stories</p> <p>11 that you're working on?</p> <p>12 A. Sure. Of course.</p> <p>13 Q. And you preserve drafts of stories,</p> <p>14 or --</p> <p>15 A. Well, I --</p> <p>16 Q. -- do you delete --</p> <p>17 A. I --</p> <p>18 Q. -- drafts?</p> <p>19 A. No, I don't preserve drafts</p> <p>20 necessarily because there's -- sometimes</p> <p>21 there's -- particularly, you know, at a place</p> <p>22 like The New Yorker, there may be 15 drafts of</p> <p>23 certain articles so that gets to be too</p> <p>24 voluminous. No, I sometimes do, but most of</p> <p>25 the time not.</p>	<p style="text-align: right;">Page 13</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 Q. Okay. Now, are you -- so now you're</p> <p>3 familiar with a person named Edward Butowsky?</p> <p>4 A. Yes.</p> <p>5 Q. And how -- how are you familiar with</p> <p>6 him?</p> <p>7 A. I had a phone call with him that you</p> <p>8 know about, of course, period.</p> <p>9 Q. Excuse me?</p> <p>10 A. That's the only contact was one phone</p> <p>11 call with him except for some emails that I --</p> <p>12 I unfortunately did not keep.</p> <p>13 Q. Do you recall when that phone</p> <p>14 conversation occurred?</p> <p>15 A. You know, I really -- I would guess</p> <p>16 in 2017, and perhaps a little later. But I --</p> <p>17 I -- I have not gone back to try and find it in</p> <p>18 my files or notes. But it would have been</p> <p>19 about 2017 I would think, maybe '18.</p> <p>20 MR. BOWMAN: I -- I instruct the</p> <p>21 witness not to guess. To the extent you</p> <p>22 have an answer or have a -- recall an</p> <p>23 answer, please give that your best</p> <p>24 recall.</p> <p>25 THE WITNESS: Absolutely.</p>

<p style="text-align: right;">Page 14</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 A. No, I don't have a specific</p> <p>3 recollection of when I did -- when I had a</p> <p>4 conversation with him.</p> <p>5 Q. Do you recall the -- the inauguration</p> <p>6 of President Trump in January of 2017?</p> <p>7 A. Sure. Yes.</p> <p>8 Q. And to the best of your recollection,</p> <p>9 was the conversation with Mr. Butowsky -- did</p> <p>10 it occur shortly after the inauguration of</p> <p>11 President Trump?</p> <p>12 A. I -- within the confines of -- I --</p> <p>13 I'm -- I am sure it did, but I -- I would never</p> <p>14 swear about anything because it was years ago.</p> <p>15 So I -- I'm -- I would say afterwards, that</p> <p>16 would be my guess. But it's just a guess, and</p> <p>17 I've been asked by counsel not to guess. It's</p> <p>18 not much of a guess.</p> <p>19 Q. And why did -- why did that</p> <p>20 conversation with Mr. Butowsky occur?</p> <p>21 A. I was asked to call him.</p> <p>22 Q. And who asked? Who asked you to call</p> <p>23 him?</p> <p>24 A. A good friend.</p> <p>25 Q. All right. And who was that good</p>	<p style="text-align: right;">Page 15</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 friend?</p> <p>3 A. His name is Larry, Larry Johnson.</p> <p>4 Q. And -- and why did Larry Johnson ask</p> <p>5 you to call Mr. Butowsky?</p> <p>6 MR. BOWMAN: Objection. Answer if</p> <p>7 you know.</p> <p>8 A. I -- I don't really know. Of course</p> <p>9 not.</p> <p>10 Q. Well, why did -- why did Mr. Johnson</p> <p>11 tell you that he was asking you to call</p> <p>12 Mr. Butowsky?</p> <p>13 A. The -- I can tell you what I came</p> <p>14 away from the conversation thinking, but</p> <p>15 that -- that -- and I will just tell you that,</p> <p>16 which is I came away thinking that he was --</p> <p>17 he -- Larry -- I've known Larry a long time,</p> <p>18 and he was trying to get some business, I</p> <p>19 thought, from Mr. Butowsky, some client</p> <p>20 relationship.</p> <p>21 Q. And so why would you call -- why</p> <p>22 would -- why would Sy -- Sy Hersh call</p> <p>23 Mr. Butowsky to help Larry Johnson get</p> <p>24 business, as you understand that?</p> <p>25 A. Well, if he asked me -- I -- I've</p>
<p style="text-align: right;">Page 16</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 known him for many years, and he asked me to do</p> <p>3 a favor and call him because -- I -- I don't</p> <p>4 know what was in his mind. I have a guess he</p> <p>5 wanted me to help get business for him, but</p> <p>6 that's just a supposition. That's the one I</p> <p>7 made, anyway.</p> <p>8 Q. Oh. Did he ask you to discuss any</p> <p>9 particular topics --</p> <p>10 A. Yes.</p> <p>11 Q. -- with -- and what topic did he ask</p> <p>12 you to discuss with Mr. Butowsky?</p> <p>13 A. I had told him something. I picked</p> <p>14 up some basically secondhand information. He</p> <p>15 was talking about the Seth Rich issue that</p> <p>16 we're talking about here, and I'd mentioned it</p> <p>17 to him, and he asked me if I would talk to</p> <p>18 Mr. Butowsky about such.</p> <p>19 Q. About -- about Seth Rich; is that</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. And so did -- did you call</p> <p>23 Mr. Butowsky?</p> <p>24 A. Yes.</p> <p>25 MR. QUAINTON: All right, so now --</p>	<p style="text-align: right;">Page 17</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 so before we get into the audio itself,</p> <p>3 I want to just very, very briefly for</p> <p>4 you just -- and this will -- this will</p> <p>5 be very brief. I just want to bring to</p> <p>6 mind some of the background to the -- to</p> <p>7 the call itself. So -- and this should</p> <p>8 be -- this should be quick, then we</p> <p>9 will -- we will -- we will move to the</p> <p>10 audio itself.</p> <p>11 So what I'm going to try to do --</p> <p>12 and the -- the reporter asked would we</p> <p>13 be familiar with Zoom, and I'm not</p> <p>14 particularly familiar with -- with Zoom,</p> <p>15 so -- so bear with me.</p> <p>16 I'm going to share my screen now</p> <p>17 and call up some -- some documents and</p> <p>18 some videos and audios. The documents</p> <p>19 and the links to the videos and audios</p> <p>20 were provided to your counsel last</p> <p>21 night, and I believe he got those to you</p> <p>22 this morning. Most of these documents,</p> <p>23 we'll not -- we'll not be going through</p> <p>24 them in any sort of -- any sort of</p> <p>25 detail. So let me try to see if I can</p>

<p style="text-align: right;">Page 18</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 pull this off here. So I go to share</p> <p>3 screen, share.</p> <p>4 So I'm going to show you,</p> <p>5 Mr. Hersh, an audio -- a -- a video that</p> <p>6 was -- was taken on ITV. And let me see</p> <p>7 if this will come up. Sorry, Mr. Hersh,</p> <p>8 do you see -- do you see what I'm</p> <p>9 showing you on my screen?</p> <p>10 THE WITNESS: I -- I -- I see a --</p> <p>11 a -- a list of documents, yes.</p> <p>12 MR. QUANTON: Okay. You do not --</p> <p>13 do you see a video?</p> <p>14 THE WITNESS: No.</p> <p>15 MR. QUANTON: Can anybody else see</p> <p>16 that, or do you just see a list of</p> <p>17 documents?</p> <p>18 MR. BOWMAN: I just see the list of</p> <p>19 documents.</p> <p>20 THE VIDEOGRAPHER: I can talk you</p> <p>21 through if you need to.</p> <p>22 MR. QUANTON: Yes.</p> <p>23 THE VIDEOGRAPHER: Do it on the</p> <p>24 record?</p> <p>25 MR. QUANTON: If everybody</p>	<p style="text-align: right;">Page 19</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 wouldn't object, do it off the record?</p> <p>3 MR. BOWMAN: Okay.</p> <p>4 MR. QUANTON: Do you want to go</p> <p>5 off the record?</p> <p>6 THE VIDEOGRAPHER: The time is</p> <p>7 9:56. We're off the record.</p> <p>8 (Discussion held off the record.)</p> <p>9 THE VIDEOGRAPHER: 9:58 a.m. We're</p> <p>10 on the record.</p> <p>11 (Exhibit No. DH1 was marked for</p> <p>12 identification.)</p> <p>13 MR. QUANTON: So I'm going to just</p> <p>14 play a short video that's been marked as</p> <p>15 DH1, and I will circulate to counsel a</p> <p>16 sheet that has the actual internet link</p> <p>17 to this clip.</p> <p>18 (The clip was played.)</p> <p>19 MS. GOVERNSKI: I objected prior to</p> <p>20 the playing of this clip, and I would</p> <p>21 ask Mr. Quanton to take the time to</p> <p>22 allow opposing counsel to object so that</p> <p>23 the transcript is accurate. I object to</p> <p>24 playing the entire audio/video, that you</p> <p>25 have not established foundation with the</p>
<p style="text-align: right;">Page 20</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 witness.</p> <p>3 BY MR. QUANTON:</p> <p>4 Q. Mr. Hersh, do you recognize that</p> <p>5 video clip that I just played?</p> <p>6 A. No.</p> <p>7 Q. Do you recognize any of the people</p> <p>8 who appear on that video clip?</p> <p>9 A. Of course.</p> <p>10 Q. And who do you recognize on that</p> <p>11 video clip?</p> <p>12 A. Julian Assange.</p> <p>13 Q. And how -- when you say "of course,"</p> <p>14 how is it that you recognize him?</p> <p>15 A. I'm --</p> <p>16 MR. BOWMAN: Object to the extent</p> <p>17 it calls for news-gathering material.</p> <p>18 The witness can answer the question if</p> <p>19 it doesn't call for revelation of</p> <p>20 news-gathering efforts.</p> <p>21 BY MR. QUANTON:</p> <p>22 Q. You -- you can answer the question,</p> <p>23 Mr. Hersh.</p> <p>24 A. I met him once in my life, yes.</p> <p>25 Q. Okay. And do you -- do you recognize</p>	<p style="text-align: right;">Page 21</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 the -- the other person in that video?</p> <p>3 A. No.</p> <p>4 Q. Mr. Hersh, can you see my screen?</p> <p>5 Can you see just a list of documents? Can you</p> <p>6 see --</p> <p>7 A. Yeah.</p> <p>8 Q. Can you see something that says DH2</p> <p>9 right now? Can you just see a list of</p> <p>10 documents?</p> <p>11 A. Yes, it's underlined, yes. It says</p> <p>12 Nakashima article, yes.</p> <p>13 Q. Oh, sorry. Hold on. I think I need</p> <p>14 you to start over. I'm starting over.</p> <p>15 Do you see the text of an actual</p> <p>16 article on your screen?</p> <p>17 A. No.</p> <p>18 Q. Do you see it now?</p> <p>19 A. Yes.</p> <p>20 MR. QUANTON: So I'm showing the</p> <p>21 witness what's been premarked as DH2.</p> <p>22 (Exhibit No. DH2 was marked for</p> <p>23 identification.)</p> <p>24 BY MR. QUANTON:</p> <p>25 Q. And I'm just going to ask the witness</p>

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2 to very briefly -- if you have it printed out,

3 that's fine. If you want me to scroll on the

4 screen, I can do that as well. Just very -- do

5 you have this document printed out, Mr. Herish?

6 A. No.

7 Q. Okay. Are you able to read it

8 briefly on the screen? All I need you to do is

9 very briefly -- I'm not going to ask you really

10 anything much of substance on the -- on the

11 content, I'm just going to ask you to scan

12 this. Is that -- can you sort of follow along

13 as I move on the screen?

14 MR. BOWMAN: Let's go off the

15 record and -- and talk about the

16 witness's ability to review the

17 documents. Can we go off the record for

18 a moment?

19 MS. GOVERNSKI: Can I just say one

20 thing before we go off the record? I

21 just -- Mr. Quainton, can we have a

22 standing objection as to exhibits?

23 Because we have not had the opportunity

24 to review them for authenticity, and it

25 would just be easier to have a standing

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2 MR. BOWMAN: I'm not sure we went

3 off yet. Do you want to go off the

4 record and talk about the handling of

5 exhibits?

6 THE VIDEOGRAPHER: The time is

7 10:06 a.m. We are off the record.

8 (Discussion held off the record.)

9 THE VIDEOGRAPHER: The time is

10 10:12 a.m. We're on the record.

11 BY MR. QUANTON:

12 Q. Mr. Herish, I've -- I've put in the

13 Zoom chat room a document that's been premarked

14 as DH2. That's Defendant Herish Exhibit 2. And

15 I'd just like you to, if you could, click on

16 that document and just briefly review it.

17 A. I know the document.

18 Q. Did you briefly review it? Could you

19 just open it and -- and just --

20 A. I -- I'm -- I -- I have reason to

21 know that document.

22 Q. Okay. And -- and why do you have

23 reason to know that document?

24 A. I have been reporting on Hillary

25 Clinton since she became Secretary of State.

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2 objection until we have a chance to

3 review after the deposition.

4 MR. QUANTON: Yes, I -- what I was

5 thinking was showing the document on the

6 screen was the equivalent of handing you

7 a document at the deposition just so you

8 wouldn't be blindsided. I don't want

9 you to not have what I'm looking at, but

10 I can't physically hand you a document,

11 so putting it on the screen was my way

12 of physically handing it to you. And I

13 was going to put -- I was going to give

14 you the documents as well after the --

15 after the deposition.

16 MS. GOVERNSKI: I appreciate that.

17 But while you're scrolling through, it's

18 not really possible for us to really

19 fully review it so it would just be

20 better to have a standing objection so

21 that --

22 MR. QUANTON: I see. That's fair

23 enough. But you know what I'm going to

24 do? Let's go back on the record. I'm

25 just going to ask Mr. Herish --

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2 Q. And, well, so you very quickly

3 identified that document. Do you -- are you

4 familiar with Ellen Nakashima?

5 A. I -- I -- the byline, yes.

6 Q. Have you -- do you know her

7 personally?

8 A. No.

9 Q. And this article discusses the

10 alleged Russian hack into DNC servers; is -- is

11 that correct?

12 A. Yes.

13 Q. And what do you think of the theory

14 that's put forward in the article?

15 A. I -- I -- it doesn't matter what I

16 think. It matters what I write.

17 Q. Well, respectfully, it's my

18 deposition. I'd like to know what -- what do

19 you think of the theory that's put forward in

20 the article?

21 A. I'm naturally a skeptic.

22 Q. So you're skeptical of the theory

23 that is put forward in the article; is that

24 correct?

25 A. I'm a -- skeptical, essentially, of

<p style="text-align: right;">Page 26</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 an awful lot of reporting that goes on today</p> <p>3 based on sources that I don't think I know. So</p> <p>4 I can say that safely. I -- I -- I don't --</p> <p>5 I -- I can't go beyond that, I can just say</p> <p>6 what -- what my skepticism is.</p> <p>7 Q. And your skepticism is just news</p> <p>8 generally today you have a -- you're skeptical</p> <p>9 of?</p> <p>10 A. A lot of it, yes, quite -- quite --</p> <p>11 quite a bit, yes.</p> <p>12 Q. Are you particularly skeptical of</p> <p>13 news reporting on the so-called Russian hack of</p> <p>14 the DNC servers?</p> <p>15 A. Russian? I -- I didn't hear it.</p> <p>16 Q. The Russian alleged hack of the DNC</p> <p>17 servers. Are you particularly skeptical of the</p> <p>18 reporting on that alleged event?</p> <p>19 A. Yes, sir.</p> <p>20 Q. I'm going to show you -- let me ask</p> <p>21 you. Why -- why is that?</p> <p>22 A. You're -- you're getting into my</p> <p>23 professional -- an -- an area of my -- my</p> <p>24 professional expertise that I don't wish to</p> <p>25 discuss. I don't think it's relevant.</p>	<p style="text-align: right;">Page 27</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 MR. BOWMAN: Eden, can I have a</p> <p>3 proffer of how this relates to the</p> <p>4 conversation with Mr. Butowsky that I</p> <p>5 understand was the subject of this</p> <p>6 deposition?</p> <p>7 MR. QUAINTON: Yes. We will get</p> <p>8 into the call. At the end of the call,</p> <p>9 towards the end, Mr. Hersh will say, "I</p> <p>10 have a narrative as to how that all --"</p> <p>11 pardon my language "-- fucking thing</p> <p>12 began," and so this relates to what we</p> <p>13 will get into when we get into the</p> <p>14 audio, which is just Mr. Hersh's</p> <p>15 statements about the Russian hacking</p> <p>16 narrative. So that's how -- that's --</p> <p>17 that's my proffer. I -- but I don't</p> <p>18 want to -- I don't want to belabor this,</p> <p>19 because we don't have much time, so I'm</p> <p>20 going to go on to the next document that</p> <p>21 I have, which is --</p> <p>22 MS. GOVERNSKI: For the record, can</p> <p>23 I just say that I object to having</p> <p>24 discussions in front of the witness</p> <p>25 about what he will or will not say?</p>
<p style="text-align: right;">Page 28</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 MR. QUAINTON: Well, I was asked</p> <p>3 for a proffer and I gave a proffer. So</p> <p>4 now let me go to the next one. I'll get</p> <p>5 the hang of this eventually. Okay, I've</p> <p>6 put into the chat window a PDF of what's</p> <p>7 been premarked as DH3, Guccifer 2.0</p> <p>8 posts.</p> <p>9 (Exhibit No. DH3 was marked for</p> <p>10 identification.)</p> <p>11 BY MR. QUAINTON:</p> <p>12 Q. And I would just like you, Mr. Hersh,</p> <p>13 very briefly to -- to look at that, open that</p> <p>14 PDF and look at it, if you will.</p> <p>15 A. You want me to open it?</p> <p>16 Q. Yes, if you could. Just on your</p> <p>17 screen, click on the PDF and -- and briefly</p> <p>18 review the document.</p> <p>19 A. Counsel, I'm a dedicated Luddite.</p> <p>20 Q. Okay. I thought you had -- had</p> <p>21 reviewed -- I thought when you talked to --</p> <p>22 MR. QUAINTON: Let's go off the</p> <p>23 record.</p> <p>24 THE VIDEOGRAPHER: The time is</p> <p>25 10:17. We're off the record.</p>	<p style="text-align: right;">Page 29</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 (Discussion held off the record.)</p> <p>3 THE VIDEOGRAPHER: The time is</p> <p>4 10:32 a.m. We're on the record.</p> <p>5 BY MR. QUAINTON:</p> <p>6 Q. Mr. Hersh, I've put in the Zoom chat</p> <p>7 room a document that's been premarked as DH3,</p> <p>8 Guccifer 2.0 posts, and I've asked you to open</p> <p>9 that document and -- and briefly look at it.</p> <p>10 Have you done that?</p> <p>11 A. It's DH4 I thought you told me to</p> <p>12 look at.</p> <p>13 Q. Well, if you could, just look at DH3</p> <p>14 first.</p> <p>15 A. I have the 4 up. Let's just do the 4</p> <p>16 while I have it up. Come on, make it easy on</p> <p>17 me, man, I -- I --</p> <p>18 Q. Okay. Fair enough.</p> <p>19 (Exhibit No. DH4 was marked for</p> <p>20 identification.)</p> <p>21 BY MR. QUAINTON:</p> <p>22 Q. Open up DH -- DH4, and that's</p> <p>23 "Guccifer 2.0 Taking Responsibility for Hack."</p> <p>24 Now, do you -- do you see that document?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 30</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 Q. And you managed to scroll through it?</p> <p>3 MS. GOVERNSKI: Excuse me. I</p> <p>4 object. You haven't sent opposing</p> <p>5 counsel the document, Mr. Quainton.</p> <p>6 Please --</p> <p>7 MR. QUANTON: Okay.</p> <p>8 MS. GOVERNSKI: -- send the</p> <p>9 document.</p> <p>10 MR. QUANTON: Okay. Meryl? It</p> <p>11 says "privately." It says -- I put it</p> <p>12 in the chat room so it should be</p> <p>13 available. The videographer, could you</p> <p>14 make this, these exhibits, available to</p> <p>15 everybody?</p> <p>16 THE VIDEOGRAPHER: Yes, sir. You</p> <p>17 sent it to me privately. You just need</p> <p>18 to make sure when you send a document</p> <p>19 you send it to everyone in the bottom of</p> <p>20 the chat feature.</p> <p>21 MS. GOVERNSKI: Also, you need to</p> <p>22 allow time to object. None of my</p> <p>23 objections are in the transcript. I've</p> <p>24 objected to your characterization of the</p> <p>25 document.</p>	<p style="text-align: right;">Page 31</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 MR. QUANTON: Okay. How do I --</p> <p>3 I'm clicking on "videographer." How do</p> <p>4 I make that --</p> <p>5 THE VIDEOGRAPHER: So you click on</p> <p>6 that, and then at the top you see</p> <p>7 "everyone in meeting"? It's at the</p> <p>8 very, very top of that list.</p> <p>9 MR. QUANTON: It says -- the first</p> <p>10 one says to everyone?</p> <p>11 THE VIDEOGRAPHER: Yeah. Make sure</p> <p>12 you select "everyone in meeting" and</p> <p>13 then send the documents.</p> <p>14 MR. QUANTON: Select -- select</p> <p>15 everyone first?</p> <p>16 THE VIDEOGRAPHER: Yeah, then drag</p> <p>17 the PDF into the window.</p> <p>18 MR. QUANTON: It's still just</p> <p>19 going to the videographer.</p> <p>20 THE VIDEOGRAPHER: I'll do it if</p> <p>21 you like. I can download it and send it</p> <p>22 to everyone.</p> <p>23 MS. GOVERNSKI: If you share your</p> <p>24 screen and show your document on the</p> <p>25 screen it will allow clarity of the</p>
<p style="text-align: right;">Page 32</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 record. The way we're doing it now,</p> <p>3 there's -- it's -- it's very unclear and</p> <p>4 going to be unclear in the record.</p> <p>5 MR. QUANTON: Okay. First, he's</p> <p>6 just going to put this in.</p> <p>7 THE VIDEOGRAPHER: DH4 is now in</p> <p>8 the chat.</p> <p>9 MR. QUANTON: And what about DH3?</p> <p>10 THE VIDEOGRAPHER: It's still</p> <p>11 there.</p> <p>12 MS. GOVERNSKI: I have DH3 and I</p> <p>13 have DH4. And for the record, I will</p> <p>14 object to DH4 to the extent it looks</p> <p>15 like it's some sort of a collaboration</p> <p>16 of documents that it's unclear whether</p> <p>17 they actually all belong together.</p> <p>18 BY MR. QUANTON:</p> <p>19 Q. Mr. Hersh, so you have had a chance</p> <p>20 to look at DH4; is that correct?</p> <p>21 A. I just looked. I -- I have it on the</p> <p>22 screen but it's just disappeared now.</p> <p>23 Q. I have it on my screen.</p> <p>24 A. It's no longer in front of me.</p> <p>25 Q. It's no longer in front of you?</p>	<p style="text-align: right;">Page 33</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 A. No. I see the list. Do you want me</p> <p>3 to --</p> <p>4 Q. Do you see the document now on the</p> <p>5 screen?</p> <p>6 A. No.</p> <p>7 MS. GOVERNSKI: It's in with the</p> <p>8 folder and not the screen with the</p> <p>9 document. You have to click "share the</p> <p>10 screen" with the document.</p> <p>11 BY MR. QUANTON:</p> <p>12 Q. Do you see the document now?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Mr. Hersh, do you see the</p> <p>15 document --</p> <p>16 A. Yes.</p> <p>17 Q. -- on the screen?</p> <p>18 A. Yeah.</p> <p>19 Q. And you had a chance before to look</p> <p>20 at that when you were looking at it on the</p> <p>21 screen; is that correct? That was -- this is</p> <p>22 what was identified as DH4.</p> <p>23 A. I -- I don't understand your</p> <p>24 question. Have I what?</p> <p>25 Q. When you were looking at it before in</p>

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2 the PDF, you had a chance to open up the file

3 and look at this document; isn't that correct?

4 A. I just opened it up a minute ago, I

5 mean, as you know.

6 Q. Yes.

7 A. Yeah, it's just -- I've looked at

8 the -- it's just five drafts. I've --

9 Q. So you --

10 A. -- read, yes.

11 Q. Okay. And so my question is --

12 MR. QUAINTON: Meryl, so this is --

13 I don't know. Can you see this

14 document?

15 THE WITNESS: I see it's -- I don't

16 know where it is. Hold on. I'm getting

17 all sorts of stuff now all over my

18 goddamn pages. I don't know where it is

19 anymore.

20 MR. QUAINTON: I think you're fine,

21 Mr. Hersh, just so --

22 THE WITNESS: Maybe I should go

23 back to -- I don't know where, it just

24 seems like now I'm getting a whole bunch

25 of stuff. It's just running through.

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1 HERSH - CONFIDENTIAL

2 I've -- what I've marked as DH4?

3 A. All of it?

4 Q. Yes, just quickly, to -- to scroll

5 through it. Did you have a chance to do that?

6 A. Well, I can tell you it's stopped

7 scrolling. It's not scrolling anymore.

8 Q. I will scroll very slowly.

9 A. Slowly?

10 Q. So you can see.

11 A. All right, so you're in control.

12 Okay.

13 Q. I'm scrolling very slowly.

14 A. First one. Go ahead.

15 Q. Why don't you tell me when -- how

16 about you tell me --

17 A. Well, the first one --

18 Q. -- when I scroll --

19 A. I read the first one. Go ahead. Go

20 to -- the next one is -- is a blank page.

21 Looks like, all right, Donald Trump report,

22 Democratic National Committee, the date. Hold

23 on. It's January. Okay, go ahead. Scroll

24 down. Scroll down. Keep on going. Keep on

25 going.

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1 HERSH - CONFIDENTIAL

2 Flipping back.

3 MR. QUAINTON: That's what I'm

4 doing to the screen. I'm just -- I'm

5 just scrolling through the actual

6 document that you scrolled through,

7 which is DH4.

8 THE WITNESS: Well, I only looked

9 at the first item.

10 MR. BOWMAN: Object to the extent

11 it mischaracterizes the witness's

12 statement.

13 BY MR. QUAINTON:

14 Q. Okay, my understanding, Mr. Hersh,

15 was you had actually looked at DH4 when you --

16 when you clicked on --

17 A. These have --

18 Q. -- the PDF.

19 A. These have a lot of stuff. I only

20 looked -- the only thing I looked at, I'm --

21 I'm back to the first document. I looked

22 through that, five paragraphs.

23 Q. Do you -- did you -- did you have a

24 chance, because you -- you asked me to go to

25 DH4. Did you have a chance to look at what

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1 HERSH - CONFIDENTIAL

2 MR. BOWMAN: Counsel, do you have a

3 proffer as to authenticity or why the --

4 the witness should recognize this?

5 MR. QUAINTON: Same reason as

6 before. I believe that --

7 THE WITNESS: What's -- if -- if

8 you want to ask me a question, ask me a

9 question.

10 MR. QUAINTON: My question's going

11 to be very, very brief, but the proffer

12 is exactly what -- what it was before,

13 is that when Mr. Hersh says that it was

14 a disinformation operation in his audio,

15 when he says that that was Brennan

16 bullshit, I think is the word -- but we

17 will get to that -- I'm going to ask him

18 what he's referring to. And --

19 MR. BOWMAN: So I'm going to

20 object. I'm going to object to showing

21 him documents with no foundation that

22 Mr. Hersh has ever read them before --

23 MR. QUAINTON: That's --

24 MR. BOWMAN: -- that Mr. Hersh

25 created them.

<p style="text-align: right;">Page 38</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 MR. QUANTON: That's going to be</p> <p>3 my question.</p> <p>4 MR. BOWMAN: Related to -- I think</p> <p>5 that he may have said -- why don't you</p> <p>6 start there with what he said?</p> <p>7 MR. QUANTON: Hold on. What I'm</p> <p>8 going to do -- this is my deposition.</p> <p>9 I'm just going to -- this is going to be</p> <p>10 very quick.</p> <p>11 BY MR. QUANTON:</p> <p>12 Q. So why don't you tell me, Mr. Hersh,</p> <p>13 if I can go through -- are you following along</p> <p>14 here?</p> <p>15 A. You know, you're back -- keep on</p> <p>16 going. I'm looking at it.</p> <p>17 THE REPORTER: This is the court</p> <p>18 reporter. I will encourage everyone to</p> <p>19 give space between speakers because I</p> <p>20 know people are speaking overtop of each</p> <p>21 other. And people are speaking and not</p> <p>22 being recorded, so please give space</p> <p>23 between speakers. Thank you.</p> <p>24 MS. GOVERNSKI: I will note that</p> <p>25 none of my objections appear to be in</p>	<p style="text-align: right;">Page 39</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 the record. Can you hear me?</p> <p>3 THE REPORTER: I can hear you now,</p> <p>4 ma'am, but --</p> <p>5 MS. GOVERNSKI: Okay.</p> <p>6 THE REPORTER: But when other</p> <p>7 people speak, they cut you and others</p> <p>8 off.</p> <p>9 MS. GOVERNSKI: Give me time to</p> <p>10 allow for objections. But I don't</p> <p>11 understand why you are testifying,</p> <p>12 Mr. Quainton. Ask your questions to the</p> <p>13 witness and don't provide the testimony.</p> <p>14 MR. QUANTON: I have been asked</p> <p>15 several times for a proffer. I have to</p> <p>16 answer the proffer. I can -- I can not</p> <p>17 answer the proffer, but I was asked for</p> <p>18 a proffer. I gave the proffer.</p> <p>19 BY MR. QUANTON:</p> <p>20 Q. So now, Mr. Hersh, have you had a</p> <p>21 chance to review what was marked as DH4?</p> <p>22 A. I've -- I've -- yes, as it scrolled,</p> <p>23 yes.</p> <p>24 Q. And my question is, do you recognize</p> <p>25 that document?</p>
<p style="text-align: right;">Page 40</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 A. No.</p> <p>3 Q. You recognize the name Guccifer 2.0?</p> <p>4 A. Sure. Yes.</p> <p>5 Q. And why do you recognize the name</p> <p>6 Guccifer 2.0?</p> <p>7 A. Well, because it's been involved --</p> <p>8 totally -- it was hired by, as far as I recall,</p> <p>9 my recollection is that it was hired by the DNC</p> <p>10 at -- at the time that the DNC initiated the</p> <p>11 first public acknowledgment or allegation</p> <p>12 they'd been hacked.</p> <p>13 MR. QUANTON: All right. So now,</p> <p>14 okay, I'm going to play a very short</p> <p>15 clip, video clip from the internet,</p> <p>16 which has been premarked as DH5. And</p> <p>17 it's identified as August 9, Julian</p> <p>18 Assange on Dutch TV. And so I'm going</p> <p>19 to play this clip and then I'm going to</p> <p>20 ask you a question about this clip.</p> <p>21 (Exhibit No. DH5 was marked for</p> <p>22 identification.)</p> <p>23 (The clip was played.)</p> <p>24 MS. GOVERNSKI: For the record, I</p> <p>25 dialed in. Can you hear me now?</p>	<p style="text-align: right;">Page 41</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 MR. QUANTON: I can hear you, yes.</p> <p>3 MS. GOVERNSKI: Okay. You</p> <p>4 didn't -- I would -- I would object to</p> <p>5 the --</p> <p>6 THE REPORTER: Oh, we -- please</p> <p>7 stop. There's a very bad echo. We</p> <p>8 cannot have that.</p> <p>9 MS. GOVERNSKI: Okay, I'm going to</p> <p>10 switch. I was told you cannot hear me.</p> <p>11 I just want my objection to playing the</p> <p>12 clip noted and I'll let the questioning</p> <p>13 continue.</p> <p>14 BY MR. QUANTON:</p> <p>15 Q. Mr. Hersh, I just played you a -- a</p> <p>16 short two-minute clip that was premarked as</p> <p>17 DH5. And my question is, do you recognize that</p> <p>18 video?</p> <p>19 A. Yes.</p> <p>20 Q. And why do you recognize -- and what</p> <p>21 is that video?</p> <p>22 A. It -- do you want me to say that it's</p> <p>23 interview of Julian Assange by a reporter on --</p> <p>24 on Dutch TV, I take it? I'll be glad to say</p> <p>25 that.</p>

<p style="text-align: right;">Page 42</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 Q. Okay. And why is it that you</p> <p>3 recognize that video?</p> <p>4 A. It was quite prominent at the time at</p> <p>5 some point back three, four years, and it</p> <p>6 was -- other than that --</p> <p>7 Q. Do you recall whether you saw that</p> <p>8 video at or about the time that it first</p> <p>9 appeared on the internet?</p> <p>10 A. No.</p> <p>11 Q. And do you recognize anybody on that</p> <p>12 video?</p> <p>13 A. Yes, I -- I do.</p> <p>14 Q. Who do you recognize?</p> <p>15 A. Julian Assange.</p> <p>16 (Exhibit No. DH6 was marked for</p> <p>17 identification.)</p> <p>18 BY MR. QUANTON:</p> <p>19 Q. So now I'm going to play what's been</p> <p>20 premarked as DH6. And do you recall before we</p> <p>21 had this detour into some of the background,</p> <p>22 just to recap, you testified that a friend, an</p> <p>23 acquaintance of yours, Larry Johnson, had asked</p> <p>24 you to call Edward Butowsky.</p> <p>25 Do you recall that testimony?</p>	<p style="text-align: right;">Page 43</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 MS. GOVERNSKI: Objection.</p> <p>3 MR. BOWMAN: You can answer the</p> <p>4 question.</p> <p>5 A. Yes.</p> <p>6 BY MR. QUANTON:</p> <p>7 Q. And do you recall that you testified</p> <p>8 that the -- the subject matter of your call was</p> <p>9 going to be Seth Rich?</p> <p>10 MR. BOWMAN: Objection. You can</p> <p>11 answer the question.</p> <p>12 MS. GOVERNSKI: Joined.</p> <p>13 A. Did I know it was going to be before</p> <p>14 it was? I -- I assumed it was, but I didn't</p> <p>15 know that.</p> <p>16 BY MR. QUANTON:</p> <p>17 Q. I'd like to go back. So in -- I -- I</p> <p>18 believe you testified in 2017, and you couldn't</p> <p>19 remember exactly when in 2017, you had a phone</p> <p>20 conversation with Edward Butowsky; is that</p> <p>21 correct?</p> <p>22 A. That's what I testified to, yes.</p> <p>23 Q. And you testified that you had that</p> <p>24 call because Larry Johnson asked you to call</p> <p>25 Mr. Butowsky; is that correct?</p>
<p style="text-align: right;">Page 44</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And you testified that you</p> <p>4 thought Mr. Johnson wanted to get -- was</p> <p>5 seeking to develop business.</p> <p>6 Do you recall that?</p> <p>7 A. That was my supposition. I -- I knew</p> <p>8 he was talking to him about doing some work for</p> <p>9 him, yes.</p> <p>10 Q. And I believe you said that you</p> <p>11 were -- that you were calling Mr. Butowsky and</p> <p>12 that the content of your call would be, as far</p> <p>13 as you were concerned, would be about Seth</p> <p>14 Rich. Do you recall that?</p> <p>15 A. That's what I --</p> <p>16 MS. GOVERNSKI: Objection.</p> <p>17 THE WITNESS: Go ahead.</p> <p>18 MR. BOWMAN: You can answer, Sy.</p> <p>19 It's okay. Counsel objected.</p> <p>20 A. Yeah, that -- that was my</p> <p>21 understanding, yes, from Larry, yes.</p> <p>22 MR. QUANTON: Okay. All right, so</p> <p>23 I'm going to play the -- I'm going to</p> <p>24 play an audio for you. And this audio</p> <p>25 has been, if I can find it -- let's go</p>	<p style="text-align: right;">Page 45</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 off the record for a second.</p> <p>3 THE VIDEOGRAPHER: The time is</p> <p>4 10:49 a.m. We're off the record.</p> <p>5 (Discussion held off the record.)</p> <p>6 THE VIDEOGRAPHER: The time is</p> <p>7 10:50 a.m. We're on the record.</p> <p>8 MR. QUANTON: So I'm going to play</p> <p>9 the audio that's been marked as DH6.</p> <p>10 This is also a document that was</p> <p>11 produced by plaintiff in this litigation</p> <p>12 to defendants, and it was Bates stamped</p> <p>13 RICH0000139.</p> <p>14 MS. GOVERNSKI: Before you're</p> <p>15 playing it, for the record, counsel has</p> <p>16 agreed that the produced documents will</p> <p>17 retain their designated confidentiality</p> <p>18 status in spite of the witness not</p> <p>19 signing the protective order.</p> <p>20 MR. QUANTON: That's correct.</p> <p>21 (The clip was played.)</p> <p>22 MR. QUANTON: Sorry for</p> <p>23 interrupting. For the video,</p> <p>24 Mr. Hersh --</p> <p>25 THE WITNESS: I forgot. I</p>

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2 apologize. I leaned back.

3 MR. QUANTON: No problem. I'm

4 going to resume.

5 (The clip was played.)

6 MR. QUANTON: Mr. Hersh?

7 THE WITNESS: Yeah.

8 MR. QUANTON: Thanks. If we could

9 just see you for the record.

10 (The clip was played.)

11 BY MR. QUANTON:

12 Q. Okay, Mr. Hersh, I've played for you

13 a -- an audio clip that was 20 minutes and 59

14 seconds long. And my question is: Do you

15 recognize that audio clip?

16 A. Yes.

17 Q. And how is it that you recognize it?

18 A. Well --

19 Q. Strike that.

20 What is it? What is that audio clip?

21 A. It's a conversation. It's a

22 conversation I had with Ed Butowsky.

23 Q. And is that your voice on the audio?

24 A. Yes.

25 Q. And I think you notice at the very

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2 introductory portion that appears not to be

3 captured on the audio, but simply in the

4 portion that we listened to, did anything

5 appear to you to be altered, manipulated in any

6 way?

7 A. No.

8 MR. QUANTON: All right. Well,

9 what I'm going to do to make this

10 easier, I'm going to give you a

11 transcript of the -- of the call. This

12 is what's been marked as DH7.

13 (Exhibit No. DH7 was marked for

14 identification.)

15 MR. QUANTON: So I'm going to put

16 that in the chat room, and then let me

17 ask you -- I don't know if you printed

18 that out yet. Let me put that -- let me

19 go ahead and put that in the chat room.

20 Stop share. Videographer, could you

21 send that to everybody? It's -- for

22 some reason, when I try to put it in the

23 chat room, it's just going to you, not

24 to everybody.

25 THE VIDEOGRAPHER: No problem.

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2 beginning of the audio, it appears that you're

3 in a -- a stream of conversation. Does that

4 seem accurate to you? At the very -- very

5 beginning of the audio.

6 MS. GOVERNSKI: Objection.

7 A. I haven't looked at it or listened to

8 it probably in three years. I -- I did -- I

9 did -- there is a section at the beginning that

10 isn't there, and I have no idea why.

11 BY MR. QUANTON:

12 Q. But from the point that I did play it

13 to the end, did -- to the best of your

14 recollection, is there anything that appears

15 edited or altered in the clip that you heard

16 just now?

17 A. The -- the phrase "there is a report"

18 has a precedent, you know. I -- I -- I do

19 write for a living, and it has a foundation

20 that isn't explained that I -- I do remember

21 making, which was, in other words, the -- when

22 I mentioned there is a report, I -- it's the

23 second time I'm mentioning that phrase.

24 Q. We'll get to that in a second. My

25 question was, again, not what was in that

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2 Give me one moment.

3 MR. QUANTON: And, Mr. Hersh, did

4 you have a chance to print out what was

5 marked as DH7?

6 THE WITNESS: No.

7 MR. QUANTON: I think it would

8 be -- that one, I think it would be

9 helpful to actually print that document

10 out. Is there any way you could do

11 that?

12 THE WITNESS: I -- I don't see it

13 on my screen.

14 MR. QUANTON: Well, your counsel

15 sent it to you previously in that email,

16 in the emails that he sent you. If you

17 want to coordinate with Mr. Bowman,

18 that's -- that's fine.

19 THE WITNESS: I didn't get a chance

20 to look at email until 15 minutes before

21 the deposition. I had other business

22 this morning.

23 MR. QUANTON: No, I understand.

24 Go off the record.

25 THE VIDEOGRAPHER: The time is

<p style="text-align: right;">Page 50</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 10:16 a.m. [sic]. We're off the record.</p> <p>3 (Discussion held off the record.)</p> <p>4 THE VIDEOGRAPHER: Time is</p> <p>5 11:24 a.m. We're on the record.</p> <p>6 BY MR. QUANTON:</p> <p>7 Q. Now, Mr. Hersh, I asked you to print</p> <p>8 out a document that was premarked as DH7, which</p> <p>9 is a transcript of the audio that we just</p> <p>10 listened to. This was a transcript prepared by</p> <p>11 plaintiff in this case. And I've put the</p> <p>12 transcript in the chat room so counsel should</p> <p>13 have that as well. And what I'd like you to do</p> <p>14 is briefly read through the transcript. Just</p> <p>15 take your time and read through that</p> <p>16 transcript, if you would.</p> <p>17 MS. GOVERNSKI: Just for the</p> <p>18 record, I'm not entirely sure whether</p> <p>19 Mr. Hersh is reviewing the -- the</p> <p>20 accurate document. It doesn't look</p> <p>21 like -- I just wanted to flag that for</p> <p>22 time's sake.</p> <p>23 MR. BOWMAN: Mr. Hersh, is that</p> <p>24 DH7?</p> <p>25 THE WITNESS: Yeah, it's a -- it's</p>	<p style="text-align: right;">Page 51</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 off -- it's a document that showed up</p> <p>3 in -- I've got it marked here. DH7. It</p> <p>4 says it's Aaron Rich. It says taken</p> <p>5 from the audio transcript that was</p> <p>6 submitted to the -- the -- the federal</p> <p>7 court here in Washington. And it says</p> <p>8 audio recorded, read, blah, blah, blah,</p> <p>9 back on legal services, so that's all I</p> <p>10 know.</p> <p>11 MS. GOVERNSKI: Oh, I'm sorry.</p> <p>12 Maybe it is correct. My apologies.</p> <p>13 MR. QUANTON: That's -- that's the</p> <p>14 one that you sent to us, or that Erica</p> <p>15 sent to us.</p> <p>16 THE WITNESS: I -- I skim-read what</p> <p>17 I said, which is -- if you can hear me,</p> <p>18 I've skim-read what I said. I've gone</p> <p>19 back once.</p> <p>20 BY MR. QUANTON:</p> <p>21 Q. Okay. Let me ask you, having read</p> <p>22 that, read through that transcript, does that</p> <p>23 appear to you to be a -- a truthful and an</p> <p>24 accurate transcription of the audio that we</p> <p>25 just listened to?</p>
<p style="text-align: right;">Page 52</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 A. No.</p> <p>3 MR. BOWMAN: Objection, but go</p> <p>4 ahead. Answer.</p> <p>5 BY MR. QUANTON:</p> <p>6 Q. It does not appear to be a -- a</p> <p>7 truthful and accurate transcription?</p> <p>8 A. No.</p> <p>9 Q. And why? Why is that? What do you</p> <p>10 notice that is not --</p> <p>11 A. It's incomplete.</p> <p>12 Q. Oh. This transcript is incomplete</p> <p>13 based on what we just listened to?</p> <p>14 A. No, it's -- it's accurate to what I</p> <p>15 just listened to.</p> <p>16 Q. Well, that was my question. My</p> <p>17 question was, does this transcript truthfully</p> <p>18 and accurately reflect just what we listened</p> <p>19 to, the portion that we listened to, the 20</p> <p>20 minutes and whatever it was, 29 seconds that we</p> <p>21 listened to? Does this transcript truthfully</p> <p>22 and accurately reflect audio that we listened</p> <p>23 to?</p> <p>24 A. It -- it -- it --</p> <p>25 MR. BOWMAN: Object.</p>	<p style="text-align: right;">Page 53</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 A. Yeah, I don't -- you know, I don't</p> <p>3 remember.</p> <p>4 MR. BOWMAN: He's not -- he hasn't</p> <p>5 gone through word for word and compared</p> <p>6 the audio recording to the transcript.</p> <p>7 You're asking him to offer essentially</p> <p>8 an expert opinion that he's not able to</p> <p>9 offer.</p> <p>10 BY MR. QUANTON:</p> <p>11 Q. Does it -- does this -- does this</p> <p>12 appear to you to be an accurate transcription</p> <p>13 of what we -- of what we listened to? And</p> <p>14 I'm -- just to what we listened to.</p> <p>15 A. I -- I have -- I'm -- I'm</p> <p>16 incapable -- I'm not capable of remembering</p> <p>17 every conversation I had. And I -- I must say</p> <p>18 again, counselor, that I -- I -- I certainly</p> <p>19 remember something at the beginning that's not</p> <p>20 there. But that -- and as far as you -- you --</p> <p>21 I heard, it seems to be accurate as to what was</p> <p>22 played.</p> <p>23 Q. Okay. Well, we may need to play the</p> <p>24 audio in pieces, then. But let me ask you just</p> <p>25 a few questions before we get into the --</p>

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2 the -- the audio of the transcript.

3 Having listened to the transcript,

4 having listen to the audio and looked at the

5 transcript, does it refresh your recollection

6 as to when you had this conversation with

7 Mr. Butowsky?

8 A. No. Yes, in -- in the sense that

9 it's after the election, I'm -- for sure.

10 Q. And anything else?

11 A. I -- I -- I don't know what you mean

12 by "anything else," sir.

13 Q. Do you recall a reference to General

14 Flynn in the audio?

15 A. Mike Flynn.

16 Q. Mike Flynn, yes. Do you recall that

17 reference?

18 A. No, but I'm --

19 Q. Okay. We'll get to that.

20 A. I certainly knew Mike Flynn.

21 Q. Don't worry, we'll -- we'll get to

22 that.

23 Do you recall what time of day it was

24 when you spoke to Mr. Hersh -- to Mr. Butowsky?

25 A. I beg your pardon?

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2 medication?

3 A. No.

4 Q. Were you -- before you called, were

5 you working on a story for which you believed

6 Mr. Butowsky might have relevant information?

7 A. I was told by -- the answer is yes.

8 Q. What -- what was the story that -- it

9 brought out with? What was the story that you

10 were working on?

11 A. I'd been working on anything

12 connected with Hillary for many years. And it

13 was my understanding from Larry Johnson that he

14 had some information that might have been

15 relevant to the Russian -- allegations about

16 Russians spying on -- on the Democrats.

17 Q. And are you still working on a story

18 related to Russians spying on the Democrats?

19 A. I -- there's --

20 Q. Anything?

21 MR. BOWMAN: Objection.

22 A. Well, okay. It's none of your

23 business.

24 MR. BOWMAN: The extent of what

25 he's currently working on has no bearing

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2 Q. Do you recall -- am I speaking loudly

3 enough?

4 A. I -- you -- something bounced, so

5 there was a -- some audio bounce. I didn't

6 hear the last sentence.

7 Q. Do you recall what -- what time of

8 day it was when you were speaking with

9 Mr. Butowsky on this audio?

10 A. Before lunch, that's for sure. I

11 don't recall it, but it's in the -- it's in

12 the -- it's in the transcript.

13 Q. Before lunch, right.

14 A. Yeah.

15 Q. So I take it -- had you been drinking

16 before this call?

17 A. No, no.

18 Q. Not even --

19 A. No, I didn't -- didn't take any dope

20 but maybe I should have.

21 Q. That was -- that was going to be my

22 next question. Had you been using any

23 recreational drugs?

24 A. No.

25 Q. Were you on any sort of mind-altering

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2 and we'd assert the privilege on that.

3 MR. QUANTON: Yeah, my question

4 was just not -- not the content, but

5 whether he's still working on the -- the

6 story that he was working on before he

7 called Mr. Butowsky.

8 MR. BOWMAN: Privilege -- our

9 privilege objection stands to the extent

10 you're asking Mr. Hersh what he's

11 working on today. You can ask a

12 question about what he was working on at

13 the time of the phone call.

14 MR. QUANTON: Okay.

15 BY MR. QUANTON:

16 Q. Can you provide what, at least the --

17 what were you working on at the time of the

18 phone call?

19 A. I -- I was very skeptical of the

20 published reports the previous fall that --

21 that the Russians had directly intervened in

22 the election, as Hillary Clinton claimed, you

23 know, to -- to -- to defeat her and put Trump

24 in office.

25 Q. And did you ever attempt to get that

<p style="text-align: right;">Page 58</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 story published?</p> <p>3 A. If she'd been -- if she'd been</p> <p>4 elected, I might have done quite a bit about</p> <p>5 her.</p> <p>6 Q. My question was just whether you</p> <p>7 attempted to get that story published that you</p> <p>8 just described --</p> <p>9 A. No.</p> <p>10 Q. -- having --</p> <p>11 A. No, no.</p> <p>12 Q. Okay. Now I'm going to try to work</p> <p>13 off the transcript, and if -- if it doesn't</p> <p>14 work, we'll -- we'll -- I'll go back and --</p> <p>15 A. You're breaking up a second. Please</p> <p>16 restate it.</p> <p>17 Q. Thank you. If I do break up --</p> <p>18 A. Yeah, it's okay.</p> <p>19 Q. -- please -- please tell me, because</p> <p>20 I obviously don't know if I'm breaking up.</p> <p>21 So I'm going to go through the</p> <p>22 transcript that's printed out. I'd like to do</p> <p>23 that in some detail. If that's not possible,</p> <p>24 I'll go back to the audio and we'll just --</p> <p>25 I'll -- I'll replay portions of the audio and</p>	<p style="text-align: right;">Page 59</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 ask you questions from the audio.</p> <p>3 So I think I'm just going to tee up</p> <p>4 my screen so that we have that audio there in</p> <p>5 case we need it.</p> <p>6 All right, so printed-out DH7, if you</p> <p>7 could look at the very first page of DH7,</p> <p>8 the -- the -- after -- after where it says DH7,</p> <p>9 on the first page as we go down, it says "Audio</p> <p>10 Recording of Ed Butowsky and Sy Hersh,</p> <p>11 RICH0000139."</p> <p>12 Do you see that?</p> <p>13 A. Yeah.</p> <p>14 Q. Then if you turn the next page, the</p> <p>15 next page, do you see the page that has four</p> <p>16 rectangles on it representing different pages?</p> <p>17 Page 2, page 3, page 4, page 5?</p> <p>18 A. Yes.</p> <p>19 Q. Is that what you see on the second</p> <p>20 page?</p> <p>21 A. Yes.</p> <p>22 Q. And then it continues like that on</p> <p>23 the following page, 6, 8 -- 6, 7, 8, 9, and so</p> <p>24 on, until the end of the document. The very</p> <p>25 last set of pages is 38, 39, 40, and 41 before</p>
<p style="text-align: right;">Page 60</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 the -- before the index at the end. Is that</p> <p>3 what you have as the last page?</p> <p>4 A. Yes.</p> <p>5 Q. All right. So page 2, if you look at</p> <p>6 page 2, line 2, "Sy Hersh," it begins -- the</p> <p>7 transcript begins, "About the kid. And I'll</p> <p>8 tell you what I know." Do you recall saying</p> <p>9 that on the audio?</p> <p>10 A. No.</p> <p>11 Q. Okay, I'm going to try to -- I'm</p> <p>12 going to play the audio.</p> <p>13 A. You know, I -- I -- I -- I -- I heard</p> <p>14 it, but you're asking me if I recalled the</p> <p>15 conversation. As I told you before, counselor,</p> <p>16 the conversation did not begin with that line,</p> <p>17 in my memory. There's something missing, and</p> <p>18 I --</p> <p>19 Q. Fair enough.</p> <p>20 A. -- don't --</p> <p>21 Q. We'll get to that in a second. We'll</p> <p>22 get to that later, but --</p> <p>23 A. It's relevant, but that's your</p> <p>24 business.</p> <p>25 Q. I -- I think my question is not</p>	<p style="text-align: right;">Page 61</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 clear. I'm only asking you if the words on the</p> <p>3 page of this transcript appear to you to</p> <p>4 reflect accurately what you heard on the audio</p> <p>5 that we played. If -- if you can't make that</p> <p>6 assertion, I'll just replay the audio and ask</p> <p>7 you the question, which is fine with me.</p> <p>8 A. You asked me if I remembered it, but</p> <p>9 I remember -- I remember hearing it, and I</p> <p>10 remember reading it. And yes, the -- what's</p> <p>11 printed seems very accurate in terms of what</p> <p>12 was played on the audio.</p> <p>13 Q. And so --</p> <p>14 MR. BOWMAN: I'm going to object to</p> <p>15 the extent you're asking him to</p> <p>16 essentially certify the transcript.</p> <p>17 MR. QUAINTON: Let's see if we can</p> <p>18 go back to shared -- shared screen.</p> <p>19 (A portion of the clip was played.)</p> <p>20 BY MR. QUAINTON:</p> <p>21 Q. Okay. Do you see my -- Mr. Hersh, do</p> <p>22 you see the screen now that says my -- "My</p> <p>23 Music" at the top?</p> <p>24 A. Yeah.</p> <p>25 Q. And then at the bottom it says DH6,</p>

<p style="text-align: right;">Page 62</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 RICH0000139. Do you see that?</p> <p>3 A. No.</p> <p>4 Q. In green at the very bottom.</p> <p>5 A. Oh, yeah.</p> <p>6 Q. Bottom left. Do you see that?</p> <p>7 A. Yeah.</p> <p>8 Q. All right, I'm going to replay the --</p> <p>9 the -- the little -- the beginning here.</p> <p>10 (The clip was played.)</p> <p>11 BY MR. QUAINTON:</p> <p>12 Q. Okay. So that begins by saying</p> <p>13 "about the kid," and "I'll tell you what I</p> <p>14 know."</p> <p>15 My question is, who are you talking</p> <p>16 about where you say "about the kid"?</p> <p>17 Who are you referring to?</p> <p>18 A. It seems -- the -- the -- the kid</p> <p>19 that was shot.</p> <p>20 Q. And -- and who was that?</p> <p>21 A. Rich.</p> <p>22 Q. Do you recall that person's first</p> <p>23 name?</p> <p>24 A. Yeah, of course.</p> <p>25 Q. What was that first name?</p>	<p style="text-align: right;">Page 63</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 A. I don't remember it right now, but I</p> <p>3 do recall it. Seth Rich.</p> <p>4 Q. Seth Rich? Okay.</p> <p>5 And that's -- that's "the kid" in</p> <p>6 this. In the statement, when you say "about</p> <p>7 the kid," you're talking about Seth Rich.</p> <p>8 A. Yeah, yes.</p> <p>9 Q. Then you say "and I'll tell you what</p> <p>10 I know." That's what we just played.</p> <p>11 When you say "I'll tell you what I</p> <p>12 know," were you speaking hypothetically?</p> <p>13 A. I -- hypothetically?</p> <p>14 Q. Were you're saying I'll tell you what</p> <p>15 I might know, or what I -- what maybe I know,</p> <p>16 or were you saying I'll tell you what I know?</p> <p>17 A. It --</p> <p>18 MR. BOWMAN: Objection to the</p> <p>19 extent you're assuming he remembers</p> <p>20 everything about the conversation. But</p> <p>21 answer if you remember, Mr. Hersh.</p> <p>22 A. Well, what I -- I was not suggesting</p> <p>23 there was anything firsthand I knew. I -- I --</p> <p>24 what I knew secondhand, and I -- I think that</p> <p>25 was -- I made that very clear.</p>
<p style="text-align: right;">Page 64</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 And also, there was a preamble about</p> <p>3 why I was talking to him, because of Larry</p> <p>4 Johnson. And all that was -- there was some</p> <p>5 chatter before all of this that I do remember,</p> <p>6 and at no time was I presenting what I know to</p> <p>7 be something, A, publishable or fact. I was --</p> <p>8 just know in the sense of a reporter learning</p> <p>9 things from other people.</p> <p>10 Q. That was -- that was my question.</p> <p>11 A. Yeah.</p> <p>12 Q. Then you say "what I know" -- this</p> <p>13 was what we just listened to. "What I know</p> <p>14 comes off an FBI report."</p> <p>15 Were you speaking hypothetically when</p> <p>16 you said "what I know comes off an FBI report"?</p> <p>17 A. At no time -- and I think I -- I made</p> <p>18 this clear, whether at the beginning or at the</p> <p>19 end -- at no time did I suggest I actually saw</p> <p>20 or had a report. And I -- I -- I should have</p> <p>21 said probably, if I -- if I had anticipated,</p> <p>22 I -- this would be not a friendly conversation</p> <p>23 but something he was transcribing, which, as</p> <p>24 you know, I did not, I should have said what --</p> <p>25 what I've heard. That would have been a more</p>	<p style="text-align: right;">Page 65</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 accurate description.</p> <p>3 But I also made it clear that I --</p> <p>4 that I was talking as a friend of Larry's. He</p> <p>5 did not know who I was, by the way. Larry told</p> <p>6 me that. And I -- I -- I made it clear that I</p> <p>7 was somebody who knows things.</p> <p>8 But I hear a lot of stuff in my</p> <p>9 profession, and I would -- would have been</p> <p>10 much, much better if I had said let's -- let's</p> <p>11 just all -- you know, what -- I'll tell you</p> <p>12 what I know of what I hear, because I didn't</p> <p>13 know anything. I was a million miles away</p> <p>14 journalistically from knowing anything. And</p> <p>15 that, I think, comes across in the transcript</p> <p>16 too as you read it.</p> <p>17 Q. You were miles away journalistically,</p> <p>18 but what you say is here "what I know comes off</p> <p>19 an FBI report." So let me ask you, how did you</p> <p>20 know that there was an FBI report to say</p> <p>21 anything about?</p> <p>22 A. The word "report" there has an</p> <p>23 antecedent, and I don't know whether I made</p> <p>24 that clear to him, to Ed, in the beginning or</p> <p>25 not. I -- I certainly made it clear to Larry</p>

<p style="text-align: right;">Page 66</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 Johnson. And there -- what I do is a report to</p> <p>3 me doesn't necessarily mean that it's something</p> <p>4 I've heard, not necessarily something I've</p> <p>5 seen. That's just the way I look at it. And I</p> <p>6 wasn't suggesting to him I -- I was -- that I</p> <p>7 actually had a document. He asked me, and I</p> <p>8 said no. I think that's in the transcript. Or</p> <p>9 pretty clear it's in the transcript. I never</p> <p>10 saw a document. I never was really interested</p> <p>11 in seeing a document. I just, in a</p> <p>12 conversation with Larry Johnson, who I -- as</p> <p>13 I -- as I made clear I've known for 30 -- since</p> <p>14 1985 or so, that he was -- he -- I told him</p> <p>15 about this gossip I heard, and he replayed that</p> <p>16 to Ed, and Ed then called me and asked me if I</p> <p>17 would, and I did.</p> <p>18 That's all. That's the whole genesis</p> <p>19 of why I happened to be talking to</p> <p>20 Mr. Butowsky. And I don't think he knew who I</p> <p>21 was, even though he said he did. Larry told me</p> <p>22 he did not.</p> <p>23 Q. Okay. I'm -- I'm going to -- to --</p> <p>24 to move to strike that as nonresponsive.</p> <p>25 But -- but let's go back to this -- this</p>	<p style="text-align: right;">Page 67</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 introductory portion that you say is not here,</p> <p>3 and let me just ask you.</p> <p>4 Your recollection today is that</p> <p>5 before the audio of the conversation that we</p> <p>6 heard, there was a portion of a discussion</p> <p>7 between you and Mr. Butowsky that was not</p> <p>8 recorded; is that correct?</p> <p>9 A. Are -- are -- I -- I mean, there was</p> <p>10 chitchat. There was hello, who are you, what</p> <p>11 are we doing, I'm -- I'm Larry's friend.</p> <p>12 That's what it's all about. There was a lot of</p> <p>13 chitchat in the beginning that I don't see</p> <p>14 here. I do remember that. I just -- but</p> <p>15 that's, you know, that's just my recollection,</p> <p>16 which is not terrific because I really don't --</p> <p>17 I -- I do know I talked to him at some length</p> <p>18 before we began talking. But -- but it's not</p> <p>19 relevant, because I don't remember exactly what</p> <p>20 was said. I know the general gist, but I don't</p> <p>21 know.</p> <p>22 Q. Okay. You -- you're referring to</p> <p>23 that pre -- that pre-audio portion, so I'm</p> <p>24 just -- just for the record just wanted to give</p> <p>25 you the opportunity. Was there anything</p>
<p style="text-align: right;">Page 68</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 material, anything important in that chitchat</p> <p>3 before the audio actually begins --</p> <p>4 A. I -- I have no idea.</p> <p>5 Q. -- that you recall --</p> <p>6 MS. GOVERNSKI: Objection.</p> <p>7 Q. Answer the question.</p> <p>8 A. I -- I -- I can't profess to remember</p> <p>9 conversations. I just remember we had a -- we</p> <p>10 had some conversation before that. What I'm</p> <p>11 saying is it's -- it's -- the transcript, in my</p> <p>12 view, is accurate as to what's been recorded.</p> <p>13 Q. So now let's come back then to what</p> <p>14 we just heard and what we see. "What I know</p> <p>15 comes off an FBI report." And you said in</p> <p>16 the -- I -- you said you haven't seen an FBI</p> <p>17 report, and that wasn't my question.</p> <p>18 My question was, when you say "what I</p> <p>19 know comes off an FBI report," how did you know</p> <p>20 that anything you were saying came off an FBI</p> <p>21 report?</p> <p>22 A. You're getting into a source issue,</p> <p>23 and I will tell you that at no time, as I said</p> <p>24 to Mr. Butowsky, did I see a report, and at no</p> <p>25 time did the person that I was talking to talk</p>	<p style="text-align: right;">Page 69</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 to an FBI agent, although he was a person of</p> <p>3 some knowledge and I've known him a long time.</p> <p>4 And at no time -- when I use the word "report,"</p> <p>5 it's a report that was made to him by somebody</p> <p>6 who was not an FBI agent.</p> <p>7 Q. So your testimony is you spoke to a</p> <p>8 person to whom FBI information was relayed. Is</p> <p>9 that --</p> <p>10 MS. GOVERNSKI: Objection.</p> <p>11 MR. BOWMAN: Mr. Hersh, if you can</p> <p>12 answer the question without identifying</p> <p>13 any confidential sources or otherwise</p> <p>14 disclosing journalistic information, you</p> <p>15 can -- you can answer the question.</p> <p>16 A. The person to whom I spoke, for whom</p> <p>17 I have high regard, happened to mention to me</p> <p>18 that -- that he learned -- let me see how I can</p> <p>19 put this without trying -- look, we're talking</p> <p>20 about whether or not I talked to an FBI agent</p> <p>21 or not, or he did. He did not. But that</p> <p>22 doesn't mean he did not speak to somebody who</p> <p>23 may have had access to FBI reports who wasn't</p> <p>24 in the FBI as an agent. That's all I'm saying.</p> <p>25 It was -- it was a -- it was one,</p>

<p style="text-align: right;">Page 70</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 two, third -- two -- two steps removed. And</p> <p>3 the only reason I mentioned it to Larry is</p> <p>4 because he was very interested -- it was in the</p> <p>5 context of Larry just being interested in it.</p> <p>6 And I play golf with him, and we chat a lot.</p> <p>7 And that's how the genesis of this conversation</p> <p>8 began, period. It was --</p> <p>9 Q. I'm going to -- I'm going to move to</p> <p>10 strike everything after the phrase "I play golf</p> <p>11 with him" as nonresponsive and --</p> <p>12 A. Okay.</p> <p>13 Q. -- Mr. Hersh, if you could listen</p> <p>14 carefully to my questions. I didn't ask you if</p> <p>15 you had spoken with an FBI agent. I'm not</p> <p>16 asking you that question. I was simply asking</p> <p>17 you -- I was trying to understand how it came</p> <p>18 to be that you knew something that came off an</p> <p>19 FBI report.</p> <p>20 And I believe your testimony is that</p> <p>21 you spoke to somebody for whom you have high</p> <p>22 regard, who was not himself an FBI agent, who</p> <p>23 had learned information relating to Seth Rich,</p> <p>24 and that person for whom you had high regard</p> <p>25 communicated that information to you, and</p>	<p style="text-align: right;">Page 71</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 that's how you came to know that information.</p> <p>3 Is that correct?</p> <p>4 MS. GOVERNSKI: Objection.</p> <p>5 MR. BOWMAN: Objection.</p> <p>6 A. I -- I think what I -- I'm trying to</p> <p>7 be careful here. The person for whom I had</p> <p>8 regard had not seen an FBI report. And that, I</p> <p>9 did know. But he -- he had heard about an FBI</p> <p>10 report, and so -- and on -- on -- that was the</p> <p>11 secondhand basis.</p> <p>12 And as I said, there was a caveat.</p> <p>13 At -- at no time did I ever pretend that I saw</p> <p>14 an FBI report or did I ever pretend or say that</p> <p>15 I talked to somebody in -- an FBI agent about</p> <p>16 that report. I did not.</p> <p>17 Q. I understand. And you -- you made</p> <p>18 that clear. And again, I'm not asking that</p> <p>19 question. I -- my question -- my next question</p> <p>20 is, did the person to whom you -- you spoke,</p> <p>21 did he represent to you that somebody else had</p> <p>22 read him the FBI report that's discussed here?</p> <p>23 MR. BOWMAN: Objection to the</p> <p>24 extent your predicate is the gender of</p> <p>25 the person.</p>
<p style="text-align: right;">Page 72</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 A. The person to whom I talked had not</p> <p>3 suggested that he'd been -- read a report. He</p> <p>4 just had secondhand information about a report,</p> <p>5 and -- and that's what I was -- thought I had</p> <p>6 passed on as -- to -- to Larry Johnson.</p> <p>7 Q. Okay.</p> <p>8 A. And Johnson passed it on, and then so</p> <p>9 it goes.</p> <p>10 Q. All right. I'm going to play the</p> <p>11 next portion of this.</p> <p>12 Let me ask you before we move on,</p> <p>13 have you been -- are you familiar with Robert</p> <p>14 Mueller?</p> <p>15 A. Mueller?</p> <p>16 Q. Do you know the -- the person Robert</p> <p>17 Mueller? Do you know that name?</p> <p>18 A. Of course.</p> <p>19 Q. And who is Robert Mueller?</p> <p>20 A. Well, he was a former FBI Director.</p> <p>21 He became FBI Director September 1, 2001, 10</p> <p>22 days before 9/11, or 11 days.</p> <p>23 Q. And was he also the Special Counsel</p> <p>24 who was appointed to investigate --</p> <p>25 A. Absolutely.</p>	<p style="text-align: right;">Page 73</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 Q. -- collusion between the Trump</p> <p>3 campaign and the Russian government?</p> <p>4 A. Yes.</p> <p>5 Q. And have you been contacted by Robert</p> <p>6 Mueller?</p> <p>7 A. No.</p> <p>8 Q. Have you been contacted by anybody</p> <p>9 purporting to work on the team of the Special</p> <p>10 Counsel?</p> <p>11 A. No.</p> <p>12 Q. Have you been contacted by anybody at</p> <p>13 the Department of Justice with any questions</p> <p>14 about Seth Rich?</p> <p>15 A. No.</p> <p>16 Q. Have you been contacted by anybody at</p> <p>17 the Metropolitan Police Department, Washington,</p> <p>18 DC, with questions about the -- about Seth</p> <p>19 Rich?</p> <p>20 A. No.</p> <p>21 Q. Have you -- are you familiar with</p> <p>22 William Barr?</p> <p>23 A. Yes.</p> <p>24 Q. That would be the Attorney General of</p> <p>25 the United States; correct?</p>

<p style="text-align: right;">Page 74</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. And has Mr. Barr contacted you</p> <p>4 about --</p> <p>5 A. No.</p> <p>6 Q. -- about anything that we have been</p> <p>7 listening to?</p> <p>8 Has he -- has Mr. Barr ever contacted</p> <p>9 you at any time?</p> <p>10 MR. BOWMAN: Objection.</p> <p>11 A. No, not -- not to my memory. But he</p> <p>12 was Attorney General in '80 and '81 or '82 when</p> <p>13 I was doing a lot of reporting, and I know I</p> <p>14 talked to people in Justice, but not -- I don't</p> <p>15 think -- he might have approved a -- a</p> <p>16 conversation with somebody in the national</p> <p>17 security area, but I don't think I ever had --</p> <p>18 in fact, I -- I'm positive I had no contact</p> <p>19 with him.</p> <p>20 Q. And are you familiar with John</p> <p>21 Durham?</p> <p>22 A. I know who he is.</p> <p>23 Q. That would be the US Attorney for</p> <p>24 Connecticut; is that correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 75</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 Q. And did Mr. Durham attempt to contact</p> <p>3 you?</p> <p>4 A. No.</p> <p>5 Q. And did -- did you attempt to contact</p> <p>6 any of the people that I've just mentioned --</p> <p>7 MR. BOWMAN: Objection.</p> <p>8 Q. -- anybody on his team, anybody at</p> <p>9 the Department of Justice, anybody at the</p> <p>10 Metropolitan Police Department with --</p> <p>11 MR. BOWMAN: I'm going to object on</p> <p>12 the basis of privilege to that question.</p> <p>13 I'll instruct the witness not to answer.</p> <p>14 And as I mentioned at the beginning of</p> <p>15 the deposition, that's the reporter's</p> <p>16 privilege under the DC statute, DC Code</p> <p>17 Section 16-4702 as well as the privilege</p> <p>18 under the First Amendment and the common</p> <p>19 law.</p> <p>20 BY MR. QUANTON:</p> <p>21 Q. So let's go -- let's go back to</p> <p>22 the -- the person with whom you had the</p> <p>23 conversation about a -- an FBI report. And are</p> <p>24 you familiar with the term "a letter agency"?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 76</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 Q. When I -- if -- if I were to say</p> <p>3 letter agency refers to the CIA, the NSA, the</p> <p>4 FBI, would you understand what I mean? Would</p> <p>5 you understand my reference to letter agency?</p> <p>6 A. No, although I -- I can't rule out</p> <p>7 having heard the phrase, but I don't remember</p> <p>8 it offhand, what I -- I don't remember.</p> <p>9 Q. Was the person to whom you spoke in</p> <p>10 the CIA?</p> <p>11 MR. BOWMAN: Objection. Instruct</p> <p>12 the witness not to answer.</p> <p>13 BY MR. QUANTON:</p> <p>14 Q. Was the person to whom you spoke at</p> <p>15 the NSA?</p> <p>16 MR. BOWMAN: Objection, same</p> <p>17 ground, privilege. Instruct the witness</p> <p>18 not to answer.</p> <p>19 BY MR. QUANTON:</p> <p>20 Q. Can you disclose the name of the</p> <p>21 person with whom you spoke?</p> <p>22 MR. BOWMAN: Objection, reporter's</p> <p>23 privilege.</p> <p>24 MR. QUANTON: I'm going to return</p> <p>25 to the transcript, and I think it will</p>	<p style="text-align: right;">Page 77</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 be -- I'm just going to play a portion</p> <p>3 again so it will be easier. You don't</p> <p>4 have to remember the entire, you know,</p> <p>5 30-page transcript. So here we go.</p> <p>6 (The clip was played.)</p> <p>7 BY MR. QUANTON:</p> <p>8 Q. Now, what we just played, you said</p> <p>9 the -- "the kid." Who were you referring to?</p> <p>10 A. Mr. Rich.</p> <p>11 Q. And you said he was 27. How did you</p> <p>12 know his -- his age?</p> <p>13 A. I read newspapers, and I read about</p> <p>14 it, and then -- I don't remember if that's the</p> <p>15 right age, but I -- I can probably get -- I'm</p> <p>16 pretty sure he was roughly that age at the time</p> <p>17 I talked.</p> <p>18 (The clip was played.)</p> <p>19 BY MR. QUANTON:</p> <p>20 Q. We just read -- you said "the kid's</p> <p>21 hands are marked up." How did you know the</p> <p>22 kid's hands -- I'm sorry, when you're speaking</p> <p>23 about the kid, who are you referring to?</p> <p>24 A. Mr. Rich.</p> <p>25 Q. You say his hands were marked up.</p>

<p style="text-align: right;">Page 78</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 How do you know his hands were marked up?</p> <p>3 A. I don't know that. Again, as I say,</p> <p>4 words are interesting. I don't know that in</p> <p>5 the sense that I had firsthand detailed</p> <p>6 knowledge, but I'd been told that by somebody</p> <p>7 who had a great deal of experience in that area</p> <p>8 and knew something about that area where he was</p> <p>9 shot.</p> <p>10 Q. Was the person who told you about the</p> <p>11 shooting the same person who told you about the</p> <p>12 FBI report?</p> <p>13 A. No.</p> <p>14 Q. Was it any person in -- in law</p> <p>15 enforcement?</p> <p>16 A. No.</p> <p>17 (The clip was played.)</p> <p>18 BY MR. QUANTON:</p> <p>19 Q. Now, you say they shot him twice in</p> <p>20 the back. This is a statement that -- did you</p> <p>21 learn this information from the same source</p> <p>22 that told you that Mr. Rich's hands were beaten</p> <p>23 up?</p> <p>24 A. I -- I -- my memory is I did, yes.</p> <p>25 (The clip was played.)</p>	<p style="text-align: right;">Page 79</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 BY MR. QUANTON:</p> <p>3 Q. And you say was shot with a .22 small</p> <p>4 caliber. Again, is this the same source who</p> <p>5 told you that, the caliber of the gun, or was</p> <p>6 that a different source?</p> <p>7 A. The same -- I -- I wouldn't say</p> <p>8 source. I would say the same person.</p> <p>9 Q. How do you distinguish between a</p> <p>10 person and a source?</p> <p>11 A. The person who told me that was a</p> <p>12 member of my family.</p> <p>13 Q. How would the person -- how would the</p> <p>14 member of your family have that information?</p> <p>15 A. My brother-in-law was a public</p> <p>16 defender for 35 years. He was in charge of --</p> <p>17 of -- in the end, he was -- he was always a --</p> <p>18 an appellate attorney. I mean, he did</p> <p>19 litigation before the Supreme Court and the</p> <p>20 Court of Appeals for the public defender's</p> <p>21 office, service office, for years, which, as</p> <p>22 you may know, is a very hard-to-get-into</p> <p>23 office. And one night at dinner he talked</p> <p>24 about the case.</p> <p>25 And he had a -- somebody in the</p>
<p style="text-align: right;">Page 80</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 public defender's office. Believe me, they</p> <p>3 know that area of the city very well because</p> <p>4 there's -- it's a high-crime, high-drug area.</p> <p>5 Anybody who's worked in that office as he did,</p> <p>6 even in an appellate level, knew a great deal</p> <p>7 about those -- those -- those cases. That's</p> <p>8 how I just happened to have heard them,</p> <p>9 anecdotally, not -- not -- period.</p> <p>10 Q. And I'm sure we can find this out.</p> <p>11 What -- what is your brother-in-law's name?</p> <p>12 A. James Klein.</p> <p>13 Q. He is still a public defender?</p> <p>14 A. No, he's retired.</p> <p>15 (The clip was played.)</p> <p>16 BY MR. QUANTON:</p> <p>17 Q. Now, you say, "They go into his house</p> <p>18 and can't do much with his computer." In that</p> <p>19 statement, who is the -- who is the "they" that</p> <p>20 you're referring, if you recall?</p> <p>21 A. The -- my -- my memory -- my memory</p> <p>22 is that "they," being the police.</p> <p>23 Q. Okay. And they go into the house and</p> <p>24 can't do much with his computer. Did you --</p> <p>25 did you learn this information from your</p>	<p style="text-align: right;">Page 81</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 brother-in-law or from the first individual you</p> <p>3 referenced, who was your person that you've</p> <p>4 known for a long time who communicated the</p> <p>5 information to you without an FBI report?</p> <p>6 A. That came from --</p> <p>7 MR. BOWMAN: Objection.</p> <p>8 THE WITNESS: Object? Okay.</p> <p>9 MR. BOWMAN: You can answer.</p> <p>10 THE WITNESS: It came from the</p> <p>11 first person.</p> <p>12 MR. QUANTON: Came from the first</p> <p>13 person.</p> <p>14 (The clip was played.)</p> <p>15 BY MR. QUANTON:</p> <p>16 Q. So again, this reference here, the</p> <p>17 cyber unit in DC, is -- is this something that</p> <p>18 your -- the first source, the first -- that</p> <p>19 told you?</p> <p>20 A. You -- I had been working on Hillary</p> <p>21 Clinton for -- by this time, since about '09</p> <p>22 intensely as a -- as a -- as a subject. And so</p> <p>23 the interesting thing for me would -- this</p> <p>24 relates to information I had learned about her</p> <p>25 email accounts and how they were handled and</p>

<p style="text-align: right;">Page 82</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 what the procedure is. And so it -- it comes</p> <p>3 from a totally different area. I -- I -- I --</p> <p>4 I spent a great deal of time journalistically</p> <p>5 working on Gmails. And -- and as you note, or</p> <p>6 I can tell you, I -- I haven't published</p> <p>7 anything because, like in many cases, as</p> <p>8 including the information about Rich, I very --</p> <p>9 I -- I don't publish much of what I know. I --</p> <p>10 I -- I just keep it, and particularly -- and so</p> <p>11 it's a combination of things.</p> <p>12 I -- I know how the procedure works.</p> <p>13 I know what the problems are between the FBI</p> <p>14 and the DC office and the -- the office in</p> <p>15 Brooklyn, which is the senior office for the</p> <p>16 FBI. And the Eastern District of Brooklyn is</p> <p>17 their best -- their best cyber unit. I know a</p> <p>18 lot about them, a lot more than -- than I</p> <p>19 probably should.</p> <p>20 Q. So when you -- when you refer to</p> <p>21 the -- the cyber unit in DC here that we</p> <p>22 just -- what we just played -- and I think</p> <p>23 there are going to be two cyber units, but</p> <p>24 this -- you're saying that the DC cops -- you</p> <p>25 can follow along if you want on the transcript.</p>	<p style="text-align: right;">Page 83</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 We just --</p> <p>3 A. Yes.</p> <p>4 Q. -- played this.</p> <p>5 A. Yeah.</p> <p>6 Q. Page 4 of 16 to 18. When you say</p> <p>7 "The DC cops, they have a cyber unit and</p> <p>8 they're more sophisticated," that's a --</p> <p>9 that -- that -- do you know the name of that</p> <p>10 cyber unit?</p> <p>11 A. No.</p> <p>12 Q. What you're referring to there is a</p> <p>13 metropolitan police department cyber unit;</p> <p>14 correct?</p> <p>15 A. Yes, absolutely.</p> <p>16 (The clip was played.)</p> <p>17 BY MR. QUANTON:</p> <p>18 Q. So you say, "They come and look at</p> <p>19 it. The idea is maybe he's had a series of</p> <p>20 exchanges." Does that information come from</p> <p>21 your first source that we discussed who had</p> <p>22 relayed the information about an FBI report?</p> <p>23 A. Yes, the -- the first person is the</p> <p>24 one who summarized the procedures or the --</p> <p>25 the -- how it worked through as he understood</p>
<p style="text-align: right;">Page 84</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 it from the low level up to the FBI cyber unit.</p> <p>3 (The clip was played.)</p> <p>4 BY MR. QUANTON:</p> <p>5 Q. Now, the FBI's cyber unit that you're</p> <p>6 referring to there, do you know the name of</p> <p>7 that unit?</p> <p>8 A. No.</p> <p>9 Q. That be the -- the CART division?</p> <p>10 A. I have no idea.</p> <p>11 Q. But again, this is your first source</p> <p>12 that we -- we talked about is relaying to you</p> <p>13 information that the FBI's cyber unit was</p> <p>14 called, and -- is that correct?</p> <p>15 A. My first source is the one who</p> <p>16 described how it went from one place. And</p> <p>17 again, some of the characteristics of my</p> <p>18 judgments about their skill are probably ones</p> <p>19 I've picked up in the last 10 years in working</p> <p>20 on other issues, the Gmail, etc. I'm not sure</p> <p>21 that my first person told me how good or bad it</p> <p>22 is.</p> <p>23 Q. All right.</p> <p>24 (The clip was played.)</p> <p>25 BY MR. QUANTON:</p>	<p style="text-align: right;">Page 85</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 Q. Okay. So here again you say, "This</p> <p>3 is according to the FBI report." And when you</p> <p>4 say "this is according to the FBI report," is</p> <p>5 that -- well, is that information relayed to</p> <p>6 you by the first source we discussed about what</p> <p>7 he had heard was on an FBI report?</p> <p>8 A. Yes.</p> <p>9 MS. GOVERNSKI: Objection.</p> <p>10 Q. Did -- did your source -- if you --</p> <p>11 if you -- if you answered this, did your source</p> <p>12 indicate to you whether that report had been</p> <p>13 read to him?</p> <p>14 A. It -- it -- I with -- want to</p> <p>15 withdraw the word "he," by the way. I -- I --</p> <p>16 I don't think that's appropriate for me to get</p> <p>17 into what -- his nomenclature or what -- what</p> <p>18 sex he is. But did his source -- did --</p> <p>19 Q. That person's, the -- the -- did that</p> <p>20 person's source --</p> <p>21 A. He -- he --</p> <p>22 Q. -- read the report to -- purport to</p> <p>23 read the report to the -- to the source?</p> <p>24 A. No. No, I -- he was -- he was</p> <p>25 someone -- he/she -- how do I describe him?</p>

<p style="text-align: right;">Page 86</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 No. He was telling me what he understood what</p> <p>3 was in a report if there had been a report. He</p> <p>4 was -- understood what the FBI -- information</p> <p>5 the FBI had, and he was summarizing.</p> <p>6 And -- and I -- I can't tell you --</p> <p>7 I -- I didn't take notes on this because it</p> <p>8 wasn't something I was writing, so we're --</p> <p>9 we're -- I'm summarizing a conversation I had</p> <p>10 to Ed -- with Ed, was just summarizing a</p> <p>11 conversation I had some months earlier. So</p> <p>12 it's -- it's pretty far from -- the word</p> <p>13 "report," as I said, I -- I should have said</p> <p>14 "what I believe" or "what he heard," what --</p> <p>15 I -- I should have caveated it more, but I did</p> <p>16 not.</p> <p>17 Q. Now, you say that the -- that the --</p> <p>18 the conversation that you had with your source</p> <p>19 was, to your recollection, several months</p> <p>20 before the time of the conversation with</p> <p>21 Mr. Butowsky?</p> <p>22 A. I can't tell you when because I</p> <p>23 just -- you know, this is some -- a person I've</p> <p>24 known for 30, 35 years, and we talk a lot. And</p> <p>25 the -- the -- the -- the context was -- you</p>	<p style="text-align: right;">Page 87</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 have to understand, the context was in a lot of</p> <p>3 work I'd done on Gmail for Hillary and how it's</p> <p>4 handled bureaucratically in the government.</p> <p>5 And it is handled -- there -- there are</p> <p>6 procedures for handling this kind of stuff, and</p> <p>7 warrants and others.</p> <p>8 And so when I said "report," and --</p> <p>9 and a report as I understood the word "report"</p> <p>10 to mean, that was something that was reported</p> <p>11 to him in the FBI, you know, the accurate --</p> <p>12 we -- we -- in the report as related to him by</p> <p>13 somebody who had looked at the report, yes, if</p> <p>14 there was a report. But I don't know.</p> <p>15 Q. Understood. Just in terms of the</p> <p>16 timing, though, we -- we -- we played a -- a</p> <p>17 clip at the very beginning. You'll recall</p> <p>18 that, the -- an August 9 audio of Julian</p> <p>19 Assange. August 9, 2016, clip of Julian</p> <p>20 Assange suggesting that Seth Rich might have</p> <p>21 been a source. And you testified that you</p> <p>22 recognized that video.</p> <p>23 Would the conversation with your</p> <p>24 source have occurred around the time of that</p> <p>25 Julian Assange video that we saw?</p>
<p style="text-align: right;">Page 88</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 MS. GOVERNSKI: Objection.</p> <p>3 MR. BOWMAN: Objection. Answer if</p> <p>4 you know.</p> <p>5 A. I -- I -- I don't know. Assange was</p> <p>6 in the news. Julian was in the -- the news.</p> <p>7 The whole issue with Julian and me, the -- my</p> <p>8 interest was not about Mr. Rich. It was about</p> <p>9 the allegations that were popping up. And this</p> <p>10 would have been the time frame that -- that the</p> <p>11 Russians had been involved in the -- the</p> <p>12 leaking from the -- the Russians were involved</p> <p>13 in the intercepting of the unencrypted Gmail</p> <p>14 DNC, Democratic National Committee, internet --</p> <p>15 you know, inter -- or emails. The -- the</p> <p>16 emails were unencrypted, and they were -- a --</p> <p>17 a 9-year-old hacker could have gotten in them.</p> <p>18 That's all. The context was that.</p> <p>19 We were talking about -- my interest</p> <p>20 was never really about Rich, but it was a</p> <p>21 context of would the Russians have done</p> <p>22 something like that. That was the issue for</p> <p>23 me.</p> <p>24 And, by the way, I have been very</p> <p>25 noisy about talking about my concern about</p>	<p style="text-align: right;">Page 89</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 Russians. I -- the first time I did it would</p> <p>3 have been three times after the -- the</p> <p>4 inauguration. I -- I wouldn't call it a -- I</p> <p>5 said that in response to a question. I -- I</p> <p>6 answered it honestly, saying I have great</p> <p>7 doubts about the Russian story. I'm not --</p> <p>8 I -- I -- I wasn't secret about my doubts about</p> <p>9 the Russian story all along, and I'm still not.</p> <p>10 Q. Well, I would just -- I -- I would</p> <p>11 ask you a question just in -- along the lines</p> <p>12 of what you said.</p> <p>13 Is it fair to say that the idea that</p> <p>14 Russian military intelligence hacked into the</p> <p>15 DNC, when you said something, a -- a 9-year-old</p> <p>16 could have done that, that was sort of a --</p> <p>17 A. I'm --</p> <p>18 Q. -- preposterous --</p> <p>19 A. I -- I'm --</p> <p>20 Q. -- notion.</p> <p>21 A. I'm exaggerating. I'm sorry.</p> <p>22 MS. GOVERNSKI: Objection.</p> <p>23 A. 12-year-old. A good 12-year-old kid</p> <p>24 could have done that. My kids when they were</p> <p>25 12 probably could have done it.</p>

<p style="text-align: right;">Page 90</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 Q. But do you feel it was preposterous</p> <p>3 that the Russian military intelligence hacked</p> <p>4 into the DNC?</p> <p>5 MS. GOVERNSKI: Objection.</p> <p>6 A. You're talking to somebody who spent</p> <p>7 10 years looking into what happened in Libya,</p> <p>8 what happened with Gmail, what happened with</p> <p>9 The Clinton Foundation. And in those 10 years</p> <p>10 I've learned a greater deal about</p> <p>11 communications between the United States and</p> <p>12 Russia on a lot of very -- levels, a lot of</p> <p>13 very sophisticated levels that are not widely</p> <p>14 known.</p> <p>15 And yes, on the basis of all that</p> <p>16 investigation, I found it rather incredible.</p> <p>17 And I'd also spent a great deal of time talking</p> <p>18 to election officials after that story first</p> <p>19 became known. It was known -- Hillary floated</p> <p>20 that idea about 10 -- a week after the election</p> <p>21 when she lost. And at that time, most of the</p> <p>22 experts I knew in academia and in -- the</p> <p>23 retired people in the community, maybe even</p> <p>24 people in the community, thought it was a</p> <p>25 preposterous story. But it was one that was</p>	<p style="text-align: right;">Page 91</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 very dominant in the newspapers and equivalent</p> <p>3 to the bounty story today about the Russians</p> <p>4 paying the Taliban to kill American soldiers,</p> <p>5 which is also a very suspect story, in my -- in</p> <p>6 my opinion.</p> <p>7 (The clip was played.)</p> <p>8 BY MR. QUANTON:</p> <p>9 Q. Now, you say the basic facts that</p> <p>10 there was no DNC email beyond May 22. Can you</p> <p>11 explain to me why that's important?</p> <p>12 A. I -- I remember why it was important</p> <p>13 three years ago or four years ago. I can just</p> <p>14 make a guess, and that would be silly. I</p> <p>15 don't -- I don't really remember. But it was</p> <p>16 a -- a -- a great distinction to me, because</p> <p>17 nothing -- what I remember is nothing in the</p> <p>18 Podesta file, nothing that was eventually made</p> <p>19 by Julian Assange -- I guess that's who did it,</p> <p>20 if he did do it. I think so -- nothing that</p> <p>21 was made public was after that date, May 21.</p> <p>22 But I don't know. There was a reason that was</p> <p>23 important to me, but I don't remember what it</p> <p>24 is now.</p> <p>25 MR. QUANTON: Fair enough.</p>
<p style="text-align: right;">Page 92</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 (The clip was played.)</p> <p>3 BY MR. QUANTON:</p> <p>4 Q. Now here, you're very specific. You</p> <p>5 say what -- "what the report says." Is it</p> <p>6 still your testimony that referring to it is</p> <p>7 just the -- just the statement that was relayed</p> <p>8 to you by your source?</p> <p>9 A. As -- as I said, secondhand by that</p> <p>10 time. You -- he had it from somebody, who was</p> <p>11 not an FBI agent, and -- although, as I said,</p> <p>12 I -- I tend to take his stuff seriously. That</p> <p>13 doesn't mean I publish everything because</p> <p>14 often, there's nothing to publish. And so I --</p> <p>15 what -- what's your question about that</p> <p>16 particular conversation?</p> <p>17 Q. You answered my question.</p> <p>18 (The clip was played.)</p> <p>19 BY MR. QUANTON:</p> <p>20 Q. If I could just press you a little</p> <p>21 bit on this, because it says -- you repeatedly</p> <p>22 say "it," "it says," "it" being -- the</p> <p>23 antecedent "it" being the report and really</p> <p>24 insist on "the report," "it says," and you --</p> <p>25 you mention that you have a -- a -- a contact.</p>	<p style="text-align: right;">Page 93</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 You're very insistent in this call on what the</p> <p>3 report says. Is that a fair characterization</p> <p>4 of the -- the words that you're using in</p> <p>5 this --</p> <p>6 A. Yes.</p> <p>7 Q. -- call?</p> <p>8 MS. GOVERNSKI: Objection.</p> <p>9 A. It's what I said but, you know, it's</p> <p>10 allegedly. Putatively. It's not -- not given.</p> <p>11 It's just we're talking about a conversation.</p> <p>12 I -- I was trying to help Larry get business</p> <p>13 and so I was probably -- I was much more vocal</p> <p>14 than I needed to be, for which I'm ashamed of,</p> <p>15 but that's the way it is.</p> <p>16 And at -- at no time -- let me say</p> <p>17 this again. At no time did this -- the initial</p> <p>18 source, who I consider to be a very highly</p> <p>19 competent guy, at no time did he have a report,</p> <p>20 did he see a report, did he say he did, did I</p> <p>21 believe there was such a -- I -- do I -- do I</p> <p>22 believe there was a report? I'm sure I</p> <p>23 believed there was a report. There would have</p> <p>24 to be because the federal government is -- is</p> <p>25 computerized, and -- but when I used the word</p>

<p style="text-align: right;">Page 94</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 "report," I used the -- the -- the report as --</p> <p>3 as made known to me, period. And I wasn't</p> <p>4 clear enough. I didn't say -- there you go.</p> <p>5 I -- I was speaking to a friend of a friend.</p> <p>6 And you will understand, I hope, that</p> <p>7 the idea that somebody would be recording that,</p> <p>8 if I'd known that, I probably would have been</p> <p>9 speaking much, much more calmly. I was trying</p> <p>10 to help a buddy.</p> <p>11 Q. Understood.</p> <p>12 (The clip was played.)</p> <p>13 BY MR. QUANTON:</p> <p>14 Q. Just to be clear, in what was relayed</p> <p>15 to you by your source, the fact that Seth Rich</p> <p>16 made contact with WikiLeaks, that was part of</p> <p>17 the information that was relayed to you by your</p> <p>18 source; correct?</p> <p>19 A. That was --</p> <p>20 MR. BOWMAN: Objection.</p> <p>21 MS. GOVERNSKI: Objection.</p> <p>22 A. The -- the reports did not say "saw</p> <p>23 the report." It was in the context of the kind</p> <p>24 of conversation you have with a man you've been</p> <p>25 talking to for 30 years. In many cases, as my</p>	<p style="text-align: right;">Page 95</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 writing shows about very sensitive things that</p> <p>3 are often accurate, and often it's one person's</p> <p>4 view. And I will tell you, if it matters, as a</p> <p>5 journalist, no matter how wonderful he is and</p> <p>6 great he is, I never publish anything without a</p> <p>7 second and often a third source, which is a</p> <p>8 very -- you know, that -- that does save a lot</p> <p>9 of trouble.</p> <p>10 So I -- this was something that I had</p> <p>11 no intention of publishing, was not interested</p> <p>12 in it per se. The only way I was interested in</p> <p>13 it was in terms of how a computer system works,</p> <p>14 how Hillary did stuff, why this happened to be</p> <p>15 a Hillary leak, did Assange really do it, did</p> <p>16 he really know anything more? I was interested</p> <p>17 in that.</p> <p>18 Q. I -- I'm going to move to strike</p> <p>19 everything after the word "published." Again,</p> <p>20 if you could just focus on my -- my -- my</p> <p>21 questions and just answer my question. So when</p> <p>22 your counsel objects, that's totally fair but</p> <p>23 please try to remember my -- my question so</p> <p>24 that -- I -- I think you answered that.</p> <p>25 My question was -- and I'll say it</p>
<p style="text-align: right;">Page 96</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 again, because I'm not sure I got a clear</p> <p>3 answer. Was the information that Seth Rich had</p> <p>4 made contact with WikiLeaks and that that</p> <p>5 contact was in Seth Rich's computer, was that</p> <p>6 information relayed to you by your source?</p> <p>7 A. Yes.</p> <p>8 MS. GOVERNSKI: Objection.</p> <p>9 (The clip was played.)</p> <p>10 BY MR. QUANTON:</p> <p>11 Q. There's a word that is unintelligible</p> <p>12 just after the word "including." This is --</p> <p>13 this is on page 8, line 18 of the transcript.</p> <p>14 And -- and it says "He's under total</p> <p>15 surveillance by everybody, including --" is</p> <p>16 that SIGET (phonetic)? Is that the word you</p> <p>17 were thinking of?</p> <p>18 A. Page 8?</p> <p>19 Q. Page 8. I can replay it again. It's</p> <p>20 just page --</p> <p>21 A. Yeah, signals intelligence, yeah,</p> <p>22 signals -- it -- it's just S-I-G and -- and --</p> <p>23 and I-N-T, SIGINT.</p> <p>24 Q. Who -- who runs SIGINT intelligence?</p> <p>25 A. Well, it -- it -- all the services</p>	<p style="text-align: right;">Page 97</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 and the NSA, everybody has a SIGINT unit. I</p> <p>3 mean, the FBI does. The NSA does, obviously.</p> <p>4 The CIA does. Everybody. The Army, the Navy,</p> <p>5 the -- even the Coast Guard has a SIGINT unit.</p> <p>6 It's just a common thing.</p> <p>7 Q. Would this be the NSA, though, when</p> <p>8 you're referring to the surveillance of Julian</p> <p>9 Assange by SIGINT? Would that be NSA SIGINT?</p> <p>10 A. I would -- I -- I -- I don't think</p> <p>11 I -- I ever thought beyond the fact that Julian</p> <p>12 is clearly being observed. It could have</p> <p>13 been -- if you want to know, you'll strike it,</p> <p>14 but clearly MI6, the British overseas</p> <p>15 intelligence unit, was also following Assange</p> <p>16 and may have been relaying stuff. That --</p> <p>17 that's always been my understanding, but I</p> <p>18 don't know that.</p> <p>19 (The clip was played.)</p> <p>20 BY MR. QUANTON:</p> <p>21 Q. So when you say "I'm working on it,"</p> <p>22 were you working on a story about how Seth Rich</p> <p>23 got in contact with WikiLeaks?</p> <p>24 A. No. Again, I was -- the -- the</p> <p>25 interest always with Julian was not so much</p>

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2 about Rich, it was about the allegations that

3 the Russians were involved in -- in -- in --

4 in -- in -- in -- involved with Julian on the

5 whole issue. They had been involved. If you

6 remember, that was part of the story, the

7 allegations that they were deeply involved

8 in -- in -- in his penetration of the DNC, etc.

9 That's my memory.

10 (The clip was played.)

11 BY MR. QUANTON:

12 Q. So here, what your source told you

13 was that he had been -- he or she, source had

14 been informed that Seth Rich had submitted a

15 series of documents, emails, from the DNC

16 WikiLeaks. Is that -- is that correct?

17 A. Yes.

18 MS. GOVERNSKI: Objection.

19 (The clip was played.)

20 BY MR. QUANTON:

21 Q. Now here -- here, when you say the

22 Democrats wrote this, I take it you're

23 referring to -- are you referring to the

24 embarrassing emails between Democratic

25 officials?

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2 (The clip was played.)

3 BY MR. QUANTON:

4 Q. So when you refer to a Steele, are

5 you referring to Christopher Steele?

6 A. Yes.

7 Q. And I think you just said you were

8 familiar with Fusion GPS; is that correct?

9 A. I was familiar with Glenn Simpson,

10 yes. And I knew -- I knew there was a company

11 called Fusion, yes.

12 Q. And are you aware that -- that

13 Mr. Steele compiled a series of reports from

14 the June 2016 to October 2016 -- 2016 time

15 frame that are commonly referred to as the

16 dossier?

17 MS. GOVERNSKI: Objection.

18 A. I'm aware -- is there an objection?

19 Oh. I'm aware --

20 Q. You can answer.

21 A. -- that's been written, yes.

22 Q. So if I were to refer to the -- the

23 Steele dossier, you would know that I'm

24 referring to a series of reports that were

25 prepared under the supervision of Mr. Steele

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2 A. I can't imagine what else, yes.

3 (The clip was played.)

4 BY MR. QUANTON:

5 Q. So here's a reference to Simpson.

6 Are you referring to Glenn Simpson?

7 A. Yes.

8 Q. Have you met Glenn Simpson?

9 A. Yes.

10 Q. And Mr. Simpson runs Fusion GPS; is

11 that correct?

12 A. Yeah, he did then. I don't -- I

13 don't know if he's doing it today.

14 Q. At -- at that time, he was -- do you

15 recall his exact role within Fusion GPS?

16 A. No, but he was -- he was -- I -- I --

17 he certainly -- I -- I did recall he was -- I

18 would say he was a major player in the company.

19 I don't know who else had stock or whatever in

20 it. I don't know.

21 Q. And at -- at the time of this

22 conversation, had you -- well, strike that.

23 Are you familiar with a series of --

24 sorry. Strike that. I'll just play a little

25 bit more.

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1 HERSH - CONFIDENTIAL

2 from -- purporting to be from the period of

3 June through October 2016?

4 A. I have a complicated answer for that,

5 counselor.

6 Q. I'd like the complicated answer.

7 A. Some of the reports were not written

8 by Mr. Steele, to the best of my knowledge.

9 Q. Well, I -- I -- I'm aware of that.

10 My question was -- I don't think I said that

11 reports were written by him, I was simply

12 trying to make sure that we had a common

13 language. I said reports prepared under the

14 overall direction of Mr. Steele. And -- and

15 I'm not -- this is not a -- a trick question.

16 I'm simply trying to make sure we have a

17 common -- have common language. Now, let me

18 see. If you can -- I don't know if you have

19 this.

20 MR. BOWMAN: Counselor, there's --

21 sorry to interrupt. We're about three

22 hours in. Do you anticipate having a

23 break soon? Because the witness has

24 been going for quite a while.

25 THE WITNESS: Yeah, are we close?

<p style="text-align: right;">Page 102</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 I -- I'd continue if we're close.</p> <p>3 MR. QUAINTON: Mr. Hersh, I don't</p> <p>4 think we're close, because I do want to</p> <p>5 get through -- I do want to get through</p> <p>6 all of this. It's very important. So</p> <p>7 let's go off the record for one second.</p> <p>8 THE VIDEOGRAPHER: The time is</p> <p>9 12:30 p.m. We're off the record.</p> <p>10 (Discussion held off the record.)</p> <p>11 THE VIDEOGRAPHER: Time is</p> <p>12 12:32 p.m. We are on the record.</p> <p>13 BY MR. QUAINTON:</p> <p>14 Q. Mr. Hersh, we were talking about</p> <p>15 Christopher Steele and Glenn Simpson, and I was</p> <p>16 asking you if I -- if I described a series of</p> <p>17 reports prepared under the overall direction of</p> <p>18 Christopher Steele from the June 2016 through</p> <p>19 October 2016 time frame, if I describe that</p> <p>20 series of memoranda as collectively --</p> <p>21 MS. SPEVACK: Sorry.</p> <p>22 Q. -- the Steele dossier, would you know</p> <p>23 what I was talking about?</p> <p>24 MS. SPEVACK: Excuse me. This is</p> <p>25 Erica Spevack. We just are having a</p>	<p style="text-align: right;">Page 103</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 technical issue and Meryl is unable to</p> <p>3 hear, so can we please take a short</p> <p>4 break?</p> <p>5 MR. QUAINTON: Sure.</p> <p>6 THE VIDEOGRAPHER: The time is</p> <p>7 12:34 p.m. We're off the record.</p> <p>8 (Discussion held off the record.)</p> <p>9 THE VIDEOGRAPHER: The time is</p> <p>10 12:35 p.m. We are on the record.</p> <p>11 BY MR. QUAINTON:</p> <p>12 Q. Do you recall the question that I</p> <p>13 asked you just before we went off the record,</p> <p>14 Mr. Hersh?</p> <p>15 A. Would you restate it, please?</p> <p>16 Q. If I were to refer to a series of</p> <p>17 memoranda prepared under the general direction</p> <p>18 of Christopher Steele, prepared from the --</p> <p>19 during the time period June 2016 through</p> <p>20 October 2016, if I were to refer to that</p> <p>21 collection of memoranda as the Steele dossier,</p> <p>22 would you know what I was talking about?</p> <p>23 A. I would --</p> <p>24 MS. GOVERNSKI: Objection.</p> <p>25 A. I would know what the public</p>
<p style="text-align: right;">Page 104</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 account -- yes, I would know the public -- the</p> <p>3 public accounts of this dossier. I don't know</p> <p>4 the dates, but would I know there was a -- a</p> <p>5 lot of publicity about a series of messages</p> <p>6 from Christopher Steele that were made public,</p> <p>7 yes, the so-called dossier.</p> <p>8 Q. And did you ever -- did you read the</p> <p>9 dossier?</p> <p>10 A. I started reading one of them, and I</p> <p>11 stopped, and I've not looked back.</p> <p>12 Q. Do you recall which one, which --</p> <p>13 when you say one of them, you mean one of the</p> <p>14 memoranda in the Steele dossier?</p> <p>15 A. I don't even recall which one. It</p> <p>16 was published by BuzzFeed, I think, one of</p> <p>17 those online things.</p> <p>18 Q. And do you recall which of the</p> <p>19 memoranda you -- you read?</p> <p>20 MR. BOWMAN: Objection, asked and</p> <p>21 answered.</p> <p>22 Q. I -- I didn't hear the answer. You</p> <p>23 can answer.</p> <p>24 A. No.</p> <p>25 Q. And why didn't you read -- so why</p>	<p style="text-align: right;">Page 105</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 didn't you read any of the other memoranda in</p> <p>3 the dossier?</p> <p>4 A. I didn't read much of the first.</p> <p>5 Because I -- in, I told you, nine years of</p> <p>6 reporting I have reason to question -- I have</p> <p>7 reason to question exactly who wrote what in</p> <p>8 the dossier.</p> <p>9 Q. Well, would it be fair to say that</p> <p>10 your judgment, based on what you read in the</p> <p>11 memorandum that you read, was that the</p> <p>12 information contained therein was preposterous?</p> <p>13 MR. BOWMAN: Objection.</p> <p>14 A. Was?</p> <p>15 Q. Was preposterous.</p> <p>16 A. Was preposterous?</p> <p>17 MS. GOVERNSKI: Objection.</p> <p>18 A. I -- I would -- I -- I don't know</p> <p>19 what you mean by that word. Do you mean that</p> <p>20 it wasn't credible?</p> <p>21 Q. Was it incredible to you, the</p> <p>22 information that you read, in the sense of not</p> <p>23 being credible?</p> <p>24 A. My -- you're getting into what I do</p> <p>25 for a living, but my -- my information is that</p>

<p style="text-align: right;">Page 106</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 not all of it was written by Mr. Steele.</p> <p>3 (The clip was played.)</p> <p>4 BY MR. QUANTON:</p> <p>5 Q. Here, you say "I know he offered a</p> <p>6 sample." Who is the "he" in that sentence?</p> <p>7 A. Mr. Rich.</p> <p>8 Q. And when you say "Mr. Rich," that's</p> <p>9 Mr. Seth Rich?</p> <p>10 A. Yeah.</p> <p>11 Q. And when you say you know this, this</p> <p>12 is information that was relayed to you by your</p> <p>13 trusted source; is that correct?</p> <p>14 MS. GOVERNSKI: Objection.</p> <p>15 A. Yes.</p> <p>16 (The clip was played.)</p> <p>17 BY MR. QUANTON:</p> <p>18 Q. Now, the use of a drop box by Seth</p> <p>19 Rich to transfer documents to WikiLeaks, was</p> <p>20 that communicated to you by your source?</p> <p>21 MS. GOVERNSKI: Objection.</p> <p>22 A. Yes.</p> <p>23 Q. Now, when I say "your source," I'm</p> <p>24 referring to the first source that you</p> <p>25 mentioned at the beginning of this, when we</p>	<p style="text-align: right;">Page 107</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 began discussing the audio. And just for</p> <p>3 clarity, this -- this source is a person that</p> <p>4 you've known, I think you've said some 35</p> <p>5 years; is that correct?</p> <p>6 A. More maybe 31, 30, something like</p> <p>7 that.</p> <p>8 Q. And this is a person that you -- that</p> <p>9 you trust; is --</p> <p>10 A. Trust --</p> <p>11 Q. -- that correct?</p> <p>12 A. -- but verify.</p> <p>13 Q. But is this a person that you trust?</p> <p>14 A. Trust but verify.</p> <p>15 Q. Is this person very senior, or -- or</p> <p>16 has this person been very senior in the United</p> <p>17 States government?</p> <p>18 MS. GOVERNSKI: Objection.</p> <p>19 MR. BOWMAN: Object to the extent</p> <p>20 this would identify the source. If you</p> <p>21 can answer the question without</p> <p>22 providing sources, go ahead.</p> <p>23 A. He is very, very knowledgeable.</p> <p>24 Q. Was he very senior, would you say, in</p> <p>25 the US government?</p>
<p style="text-align: right;">Page 108</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 MR. BOWMAN: Objection.</p> <p>3 MS. GOVERNSKI: Objection.</p> <p>4 A. He was certainly senior in certain</p> <p>5 areas of intelligence collection, yes.</p> <p>6 Q. So when I speak about -- just for</p> <p>7 clarity going forward, when I speak about the</p> <p>8 first source, rather than doing this over and</p> <p>9 over again, can we just agree that the phrase</p> <p>10 "the first source" will refer to the person</p> <p>11 that you've known for 31 years, that trust but</p> <p>12 verify, and who is a senior person in</p> <p>13 intelligence circles? Can we just agree that</p> <p>14 that's --</p> <p>15 MS. GOVERNSKI: Objection.</p> <p>16 Q. -- by -- when -- when I refer to the</p> <p>17 first source?</p> <p>18 MR. BOWMAN: Objection.</p> <p>19 A. I think I said all I want to say</p> <p>20 about him.</p> <p>21 Q. Just so we're clear, when I refer to</p> <p>22 the first source, I'm just going to be</p> <p>23 referring back to this person that we just -- I</p> <p>24 just described. So there's -- so we're --</p> <p>25 we're clear.</p>	<p style="text-align: right;">Page 109</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 MS. GOVERNSKI: Objection.</p> <p>3 MR. BOWMAN: Objection.</p> <p>4 (The clip was played.)</p> <p>5 BY MR. QUANTON:</p> <p>6 Q. So in this portion of what the --</p> <p>7 your first source, it was -- this was</p> <p>8 information that we just listened to. This was</p> <p>9 information communicated to you by the first</p> <p>10 source?</p> <p>11 A. Could -- I couldn't -- yes, Your</p> <p>12 Honor.</p> <p>13 Q. And in the information that was</p> <p>14 communicated to you here, the information was</p> <p>15 specifically that Seth Rich had shared this</p> <p>16 drop box with friends of his.</p> <p>17 A. That --</p> <p>18 MS. GOVERNSKI: Objection.</p> <p>19 A. That's what I was told.</p> <p>20 Q. And you were told that in -- in</p> <p>21 this -- in -- in -- in -- that there was a</p> <p>22 report that -- that said if anything happened</p> <p>23 to Seth Rich, that that would not solve your</p> <p>24 problem. When you say here "your problem,"</p> <p>25 who -- whose problem were you referring to?</p>

<p style="text-align: right;">Page 110</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 MS. GOVERNSKI: Objection.</p> <p>3 Q. Let me just read to you what you said</p> <p>4 again. You said -- said, "If anything happens</p> <p>5 to me, you're not -- it's not going to solve</p> <p>6 your problem." In that sentence, is -- does</p> <p>7 the "me" refer to Seth Rich?</p> <p>8 A. Yeah, I -- I -- I really don't quite</p> <p>9 know the context of -- shoot, I didn't -- hold</p> <p>10 on. I didn't really know the context of --</p> <p>11 I -- I -- I can't remember. I'm -- what I was</p> <p>12 referring to. I mean, I -- I'll -- I guess the</p> <p>13 understanding would be that he'd shared his</p> <p>14 information with some roommates. He had</p> <p>15 roommates. But I -- I don't know that. I</p> <p>16 mean, I -- I just -- I don't remember what the</p> <p>17 context was. It was years ago when I made that</p> <p>18 conversation with -- with Mr. Butowsky.</p> <p>19 Q. So you don't recall whether the</p> <p>20 report or the -- the --</p> <p>21 A. There was no report that I knew</p> <p>22 about. There was just --</p> <p>23 Q. Let me get your --</p> <p>24 A. -- summarizing your conversation.</p> <p>25 Somebody told him what he had learned from the</p>	<p style="text-align: right;">Page 111</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 FBI. When I used -- I -- as I say, the notion</p> <p>3 that there was a physical report is -- is -- I</p> <p>4 just don't know that. You know --</p> <p>5 Q. Every report, or --</p> <p>6 A. -- we -- not every report is -- is</p> <p>7 physical. There are a lot of reports,</p> <p>8 particularly in -- in -- in the -- in the</p> <p>9 intelligence world there's a lot of information</p> <p>10 that isn't put down, believe me. There's a lot</p> <p>11 of stuff that's done hand to hand. Just the</p> <p>12 whole business of being covert is not to leave</p> <p>13 a trail or a paper trail. And so in -- I</p> <p>14 was -- this is somebody who lived in that</p> <p>15 world, so I was speaking in that context, in</p> <p>16 the context of -- you know, he may have even</p> <p>17 been speaking in that context.</p> <p>18 You -- you -- you don't put a lot of</p> <p>19 things in writing in -- in the intelligence</p> <p>20 business at a certain level, and that's -- so</p> <p>21 part of the problem is it's just an</p> <p>22 understanding I have with him, and -- and it's</p> <p>23 a complicated sort of understanding. But that</p> <p>24 doesn't mean that he -- when he said "report,"</p> <p>25 he doesn't necessarily even mean -- it's in the</p>
<p style="text-align: right;">Page 112</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 report he got, not necessarily a report that</p> <p>3 was written or codified. He got a report. He</p> <p>4 gets a lot of reports, this person.</p> <p>5 Q. I understand. And that's -- that's</p> <p>6 helpful clarification. While your testimony is</p> <p>7 that you don't know whether there is a physical</p> <p>8 report, physical FBI report, containing the</p> <p>9 information that you are --</p> <p>10 THE WITNESS: I'm sorry, I thought</p> <p>11 I turned this off. Let me just get rid</p> <p>12 of this. I got to just turn this -- my</p> <p>13 apologies.</p> <p>14 MR. QUANTON: No problem.</p> <p>15 THE WITNESS: No, it's not. It's a</p> <p>16 problem. I thought I turned it off.</p> <p>17 That's how good I am when it comes to</p> <p>18 computers. I can't even turn off a damn</p> <p>19 cell phone when I want to. Okay,</p> <p>20 anyway, I apologize. That's so stupid.</p> <p>21 Well, I think I got everything turned</p> <p>22 off, but I don't know. Go ahead.</p> <p>23 MR. QUANTON: We'll break just</p> <p>24 after this.</p> <p>25 BY MR. QUANTON:</p>	<p style="text-align: right;">Page 113</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 Q. So your -- your testimony is that</p> <p>3 you -- you don't know whether there was a</p> <p>4 physical report that contained -- let me just</p> <p>5 finish -- that contained the information that</p> <p>6 was communicated to your first source that was</p> <p>7 then communicated to you. But my question is,</p> <p>8 it's certainly possible, isn't it, that there</p> <p>9 is actually a physical report?</p> <p>10 MS. GOVERNSKI: Objection.</p> <p>11 MR. BOWMAN: Objection,</p> <p>12 speculation. But you can answer the</p> <p>13 question if you know.</p> <p>14 A. All I know is that the word "report"</p> <p>15 for somebody that I deal with doesn't</p> <p>16 necessarily mean that they put it down in</p> <p>17 writing.</p> <p>18 Q. I understand.</p> <p>19 A. People --</p> <p>20 Q. Doesn't necessarily --</p> <p>21 A. The world that I often deal in</p> <p>22 doesn't revolve around paper. That's what</p> <p>23 makes it so friggin' hard to do what I do. And</p> <p>24 that's why you always verify everything</p> <p>25 everybody tells you, because the word "report"</p>

<p style="text-align: right;">Page 114</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 is different to me and to him. And not to Ed.</p> <p>3 I admit that. Not to Ed Butowsky. Than it</p> <p>4 is -- I -- I would even see -- say even Larry</p> <p>5 Johnson would understand the difference between</p> <p>6 "report" and "report."</p> <p>7 Q. Okay. You said it doesn't</p> <p>8 necessarily mean that there is a written report</p> <p>9 when you refer to "report." It doesn't --</p> <p>10 A. Well --</p> <p>11 Q. -- necessarily -- let me finish my</p> <p>12 question. It doesn't necessarily not mean that</p> <p>13 there's a physical report either, does it?</p> <p>14 MS. GOVERNSKI: Objection.</p> <p>15 A. It -- I -- you want me to speculate</p> <p>16 on what it means? I mean, I've told you what</p> <p>17 it means. It means, you know, that -- that</p> <p>18 they live in a world of a lot of messages</p> <p>19 passed orally or in code, and -- and so that's</p> <p>20 the world I deal with with this particular</p> <p>21 person.</p> <p>22 So the notion of a report, he --</p> <p>23 the -- the word "report" is just different for</p> <p>24 me than it is for a lot of other people, that's</p> <p>25 all. And I -- I think I said -- I know I said</p>	<p style="text-align: right;">Page 115</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 to Ed, I thought at the beginning, but I</p> <p>3 certainly said it -- I'm looking at it at the</p> <p>4 end. I certainly said I'm -- you know, none of</p> <p>5 this may be true because, you know, you</p> <p>6 understand there's always a caveat in this --</p> <p>7 in this area that I deal with.</p> <p>8 Q. Well, we'll get to what you said at</p> <p>9 the end. Right -- right now, I'm just trying</p> <p>10 to focus in on the -- what -- what your</p> <p>11 testimony is, because I -- you -- you're saying</p> <p>12 that when you refer to a report, it doesn't</p> <p>13 necessarily mean it's a written report.</p> <p>14 A. It's --</p> <p>15 Q. Is that correct?</p> <p>16 A. That's -- that's a --</p> <p>17 Q. And it doesn't necessarily not mean</p> <p>18 there's a written report; isn't that correct?</p> <p>19 MS. GOVERNSKI: Objection.</p> <p>20 A. My understanding of the English</p> <p>21 language is you're absolutely right.</p> <p>22 MR. QUANTON: All right, let's --</p> <p>23 let's break for lunch then.</p> <p>24 THE WITNESS: Okay.</p> <p>25 THE VIDEOGRAPHER: Off the record.</p>
<p style="text-align: right;">Page 116</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 (Recess taken.)</p> <p>3 THE VIDEOGRAPHER: The time is</p> <p>4 1:32 p.m. We're on the record.</p> <p>5 BY MR. QUANTON:</p> <p>6 Q. Okay, good afternoon, Mr. Hersh. So</p> <p>7 do you have the -- the -- the transcript of the</p> <p>8 audio conversation in front of you?</p> <p>9 A. Yeah, I've got it now.</p> <p>10 Q. If you go to page 8 --</p> <p>11 A. Yeah, I see that, yes.</p> <p>12 Q. Lines 19 and 20 --</p> <p>13 A. Page? Oh, line 19 and 20, yes.</p> <p>14 Q. And you say, "So I don't know how he</p> <p>15 got in contact, but I'm working on it." I --</p> <p>16 in -- in that sentence, who does "he" refer to?</p> <p>17 A. Let me read this. I -- I could just</p> <p>18 make a guess. I don't know.</p> <p>19 MR. QUANTON: All right. Fair</p> <p>20 enough. So what -- what I'm going to do</p> <p>21 now, I'd just like you to sit back and</p> <p>22 relax. I want to play you a -- a clip,</p> <p>23 and then I'm just going to ask you a few</p> <p>24 questions about it. Nothing heavy duty,</p> <p>25 and it is interesting, I promise. So</p>	<p style="text-align: right;">Page 117</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 where did you guys go? Okay, so this is</p> <p>3 what I've marked as DH8 in the chat</p> <p>4 window.</p> <p>5 (Exhibit No. DH8 was marked for</p> <p>6 identification.)</p> <p>7 MR. QUANTON: And I've marked that</p> <p>8 as a link to the clip that I'm going to</p> <p>9 play right now. Actually, it's a -- a</p> <p>10 series of portions of an interview, and</p> <p>11 I'm going to go ahead right now.</p> <p>12 MS. GOVERNSKI: I'm sorry. I would</p> <p>13 object to portions. I have to fix my</p> <p>14 audio. I'm sorry. I would object to</p> <p>15 portions of audio that are -- on -- on</p> <p>16 grounds of completeness.</p> <p>17 MR. QUANTON: Okay, here goes.</p> <p>18 THE WITNESS: I'm not hearing</p> <p>19 anything.</p> <p>20 THE REPORTER: The court reporter</p> <p>21 is also not hearing any sound.</p> <p>22 THE WITNESS: Hello?</p> <p>23 MS. GOVERNSKI: I'm not hearing</p> <p>24 anything either.</p> <p>25 MR. BOWMAN: No.</p>

<p style="text-align: right;">Page 118</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 MR. QUANTON: Is that true of</p> <p>3 everybody?</p> <p>4 MR. BOWMAN: Yeah.</p> <p>5 MR. QUANTON: Nobody's hearing</p> <p>6 anything?</p> <p>7 MR. BOWMAN: Correct.</p> <p>8 THE VIDEOGRAPHER: Nor am I, sir.</p> <p>9 If you tick the button to share --</p> <p>10 MR. QUANTON: Yeah, yeah. I'll</p> <p>11 have to do a new share.</p> <p>12 (The clip was played.)</p> <p>13 MR. QUANTON: Can you hear?</p> <p>14 (The clip was played.)</p> <p>15 MR. QUANTON: Everybody can hear</p> <p>16 that now?</p> <p>17 MR. BOWMAN: I can.</p> <p>18 THE REPORTER: The reporter can</p> <p>19 hear it.</p> <p>20 MS. GOVERNSKI: I can hear it, and</p> <p>21 I want to lodge an objection to it.</p> <p>22 MR. QUANTON: Your objection was</p> <p>23 noted, Meryl.</p> <p>24 (The clip was played.)</p> <p>25 MR. QUANTON: Can you guys hear me</p>	<p style="text-align: right;">Page 119</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 now? Ready to redo it. Can anyone hear</p> <p>3 me?</p> <p>4 MR. BOWMAN: We can hear you.</p> <p>5 MR. QUANTON: Can you hear this?</p> <p>6 MR. BOWMAN: No.</p> <p>7 MR. QUANTON: Could you hear that</p> <p>8 or not?</p> <p>9 MR. BOWMAN: No.</p> <p>10 MS. GOVERNSKI: No.</p> <p>11 THE REPORTER: No.</p> <p>12 MR. QUANTON: How about now?</p> <p>13 (The clip was played.)</p> <p>14 MR. QUANTON: Nod your head if you</p> <p>15 can.</p> <p>16 (The clip was played.)</p> <p>17 BY MR. QUANTON:</p> <p>18 Q. So, Mr. Hersh, do you recognize the</p> <p>19 video that I just played?</p> <p>20 A. No. No.</p> <p>21 Q. Do you recognize any of the people</p> <p>22 that we saw on the video?</p> <p>23 A. I only saw one person.</p> <p>24 Q. And who did you see?</p> <p>25 A. The master of ceremonies there. It's</p>
<p style="text-align: right;">Page 120</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 the fellow running the show, the -- whatever</p> <p>3 that show is, CNN -- CN LIVE. I don't think</p> <p>4 anybody else was shown.</p> <p>5 Q. So there -- there was a picture of a</p> <p>6 person called Joe Lauria. Do you know Joe</p> <p>7 Lauria?</p> <p>8 A. No.</p> <p>9 Q. And to your knowledge, have you ever</p> <p>10 spoken with Mr. Lauria?</p> <p>11 A. No.</p> <p>12 MR. BOWMAN: Objection.</p> <p>13 A. To my -- no, I -- I -- I know the</p> <p>14 name. It showed up in that period. I don't --</p> <p>15 I don't know anything about it. I don't</p> <p>16 remember why or how. But, you know, I -- I</p> <p>17 read the newspapers carefully. He was -- he</p> <p>18 was obviously somebody who for a little while</p> <p>19 was involved in something.</p> <p>20 Q. He is speaking to a person who</p> <p>21 identifies himself as Kim Dotcom. Are you</p> <p>22 familiar with the name Kim Dotcom?</p> <p>23 A. No.</p> <p>24 MS. GOVERNSKI: Objection.</p> <p>25 A. Thank you. I'm sorry. No.</p>	<p style="text-align: right;">Page 121</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 Q. So I take it you have never</p> <p>3 communicated with anybody who goes by the name</p> <p>4 of Kim Dotcom?</p> <p>5 MR. BOWMAN: Objection.</p> <p>6 A. Not to my knowledge. How's that? To</p> <p>7 be precise.</p> <p>8 MS. GOVERNSKI: I object to future</p> <p>9 use of this video. You have not</p> <p>10 established personal knowledge.</p> <p>11 MR. QUANTON: Yeah, I'm just going</p> <p>12 to pick --</p> <p>13 (The clip was played.)</p> <p>14 MS. GOVERNSKI: I'd like to object.</p> <p>15 For the record, I'd like to have a</p> <p>16 standing objection to counsel's --</p> <p>17 and -- and a motion to strike the</p> <p>18 ongoing use of video for which you have</p> <p>19 not established foundation and which</p> <p>20 runs contrary to the fundamental Rules</p> <p>21 of Evidence from an admissibility or</p> <p>22 authenticity perspective. So this</p> <p>23 ongoing use of long video for which</p> <p>24 there's no foundation I would object to</p> <p>25 on a standing basis and -- and move to</p>

<p style="text-align: right;">Page 122</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 strike.</p> <p>3 MR. BOWMAN: And I'll -- I'll also</p> <p>4 object. You know, I understand our</p> <p>5 agreement was that this was going to be</p> <p>6 a deposition about the telephone call,</p> <p>7 not, you know, playing a bunch of</p> <p>8 recordings that Mr. Hersh didn't give</p> <p>9 interviews to and -- and had no</p> <p>10 involvement in.</p> <p>11 MR. QUANTON: This very much was</p> <p>12 about the -- the telephone call.</p> <p>13 Specifically, Mr. Lauria specifically</p> <p>14 talks about the telephone call. And as</p> <p>15 to --</p> <p>16 MR. BOWMAN: Or opinions about the</p> <p>17 telephone call.</p> <p>18 MR. QUANTON: As to</p> <p>19 authentication, the question I -- I have</p> <p>20 is simply whether Mr. Hersh recognizes</p> <p>21 this audio, this video that I have --</p> <p>22 that I've shown him. And I'll ask you</p> <p>23 that question.</p> <p>24 BY MR. QUANTON:</p> <p>25 Q. Do you recognize the portion that I</p>	<p style="text-align: right;">Page 123</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 just showed you, Mr. Hersh?</p> <p>3 A. You mean -- I just watched it, so I</p> <p>4 recognize it. Of course I do.</p> <p>5 Q. Oh.</p> <p>6 A. I just watched it, if that's what</p> <p>7 you're asking me. I watched it.</p> <p>8 Q. You recognize this as something you</p> <p>9 had previously seen?</p> <p>10 A. I mean, you have to have a better</p> <p>11 question than that. What is your question,</p> <p>12 counselor?</p> <p>13 Q. Is this a video that you had</p> <p>14 previously seen?</p> <p>15 A. No, absolutely not.</p> <p>16 Q. All right. And does that refresh</p> <p>17 your recollection, though, as to whether you</p> <p>18 had a conversation with Mr. Lauria?</p> <p>19 A. Mr. who?</p> <p>20 MR. BOWMAN: Objection.</p> <p>21 Q. Mr. Lauria.</p> <p>22 MR. BOWMAN: Answer if you can</p> <p>23 remember.</p> <p>24 MS. GOVERNSKI: Join.</p> <p>25 A. Counselor, and I don't have a</p>
<p style="text-align: right;">Page 124</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 computer, or does the FBI have a computer. I</p> <p>3 have -- I just listened to that with great</p> <p>4 pleasure because it's the kind of stuff that --</p> <p>5 well, you don't need me to characterize it.</p> <p>6 You -- it can -- it stands by itself.</p> <p>7 No, I don't recognize him. I don't</p> <p>8 remember a conversation with him. And at no</p> <p>9 time was I planning to write a story. And</p> <p>10 my -- my friend, Larry Johnson, at no time</p> <p>11 would have thought or said to anybody I was --</p> <p>12 in fact, he was quite sorry that I -- he got me</p> <p>13 in the middle of this mess because he knew I</p> <p>14 was just trying to be nice to help him out,</p> <p>15 that's all. But that -- that's the way it</p> <p>16 goes.</p> <p>17 So there's nothing in there I</p> <p>18 recognize. It's all just the usual stuff</p> <p>19 that -- you know, Looney Toons.</p> <p>20 Q. I'm going to move to strike</p> <p>21 everything that was said after you said you</p> <p>22 didn't recognize this clip.</p> <p>23 A. Okay.</p> <p>24 MR. QUANTON: Just going to do one</p> <p>25 last thing here for you, then we'll be</p>	<p style="text-align: right;">Page 125</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 done with this.</p> <p>3 MS. GOVERNSKI: And we would oppose</p> <p>4 that objection.</p> <p>5 (The clip was played.)</p> <p>6 BY MR. QUANTON:</p> <p>7 Q. So, Mr. Hersh --</p> <p>8 MS. GOVERNSKI: Again, objection</p> <p>9 for the same reasons, and move to</p> <p>10 strike.</p> <p>11 Q. Mr. Hersh, have you ever -- have you</p> <p>12 seen this video clip that I showed you at any</p> <p>13 previous time?</p> <p>14 A. No, no.</p> <p>15 Q. Now, at the end of this video, you</p> <p>16 hear a voice saying that Seth would have needed</p> <p>17 to work with somebody close. Do you have your</p> <p>18 audio on that?</p> <p>19 A. Yes.</p> <p>20 MS. GOVERNSKI: Objection.</p> <p>21 Q. And in your transcript you read</p> <p>22 before on page 8, you said, "I don't know how</p> <p>23 he got into contact. I'm working on it."</p> <p>24 And my question for you is, in your</p> <p>25 work on -- you were investigating, did you ever</p>

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2 find information about who Seth may have been

3 working with in transmitting emails to

4 WikiLeaks?

5 MR. BOWMAN: Objection.

6 MS. GOVERNSKI: Objection.

7 A. Two-part answer. One, I never found

8 anything. And -- and two, I never looked to

9 find anything. I was never interested in doing

10 such.

11 BY MR. QUANTON:

12 Q. So when you said "I'm working on it"

13 to Mr. Butowsky, what did you mean by that?

14 Well, let's go back. Let's go back to the

15 transcript.

16 A. As long as you don't play this again,

17 I'll do anything you want.

18 Q. That's done.

19 A. What page are you at?

20 Q. So I'm still on page 8. And if -- if

21 we just pick it up, read it to yourself on

22 page -- start at the top of page 7. Do you see

23 that on -- on --

24 A. Yeah.

25 Q. -- the box? Read down to the -- to

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2 ago, more than -- almost -- well, it was May,

3 isn't it, of -- of -- three years ago. I just

4 don't remember what the context was. But I --

5 I wasn't working on Rich. I was certainly

6 working on anything but that. I was working on

7 Julian, seeing -- on the Russian connection.

8 And by working, I mean I actually made a call,

9 you know, to -- to Julian about it. It's in

10 the transcript.

11 Q. Well, so let me ask you this, though.

12 The -- the statements that you're making here

13 on this recording, you are not -- you're not

14 making this up; correct?

15 A. I'm not what?

16 Q. You're not making it up. Not

17 confabulating.

18 MS. GOVERNSKI: Objection.

19 MR. BOWMAN: Objection.

20 A. I don't understand what you mean by

21 that.

22 Q. Well, when you make a statement, "So

23 I don't know how he got in contact, but I'm

24 working on it," that was -- as far as you can

25 remember, that was a truthful statement; is

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2 the bottom of page 8.

3 A. Yeah, I -- I've read it.

4 Q. Okay. So you see on page 8, lines 19

5 and 20, where you say "So I don't know how he

6 got in contact, but I'm working on it"?

7 After having reread that, who does

8 the "he" refer to in that sentence?

9 A. It's -- the logic says Seth Rich, but

10 I don't know.

11 Q. Okay. And when you say "But I'm

12 working on it," does that refresh your

13 recollection as to whether you were working on

14 attempting to find out how Seth Rich got in

15 contact with WikiLeaks?

16 A. The context --

17 MS. GOVERNSKI: Objection.

18 A. Yes, just -- just so you know, the

19 context, as I've said many times, the interest

20 totally with Assange was whether or not the

21 Russians were involved in the whole deal, in

22 the whole WikiLeaks thing, as was being

23 alleged. And that was my interest. And I

24 presume -- I -- it's very hard to know what's

25 said in one sentence that was said three years

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2 that correct?

3 A. Yeah, except -- yes, it's

4 absolutely -- I -- I -- I guess you could say

5 so. I just don't know. I really don't

6 remember. I wasn't working on it in the

7 sense -- normal sense as I was working on my

8 issue, as always, Assange.

9 And, as I said, I -- I have a lot of

10 collateral other information that had nothing

11 to do with the Seth Rich case about Julian and

12 what he was trying to do with the -- with the

13 Gmails and whether he released them or not and

14 who gave it to him and how he got it that have

15 nothing to do with the -- how they originated.

16 But he did -- he obviously did release emails.

17 And there's probably a lot more to

18 that story that has nothing to do with this

19 issue. But I didn't write anything, so it

20 doesn't matter.

21 Q. Well, my -- my question is when you

22 were speaking to Mr. Butowsky, you were not

23 making things up. You were not inventing

24 things on Mr. Butowsky. Is that --

25 MR. BOWMAN: Objection.

<p style="text-align: right;">Page 130</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 MS. GOVERNSKI: Objection.</p> <p>3 A. Asked and answered, counselor. I</p> <p>4 mean, you know, I was -- I was having a</p> <p>5 conversation with him that -- that I thought</p> <p>6 was a private -- I wasn't exaggerating or</p> <p>7 disputing anything. I was having a</p> <p>8 conversation that I thought was private, that I</p> <p>9 was going to help a friend get a contract. So</p> <p>10 I was being -- I was being as nice as I could</p> <p>11 be, and I was being forthcoming. But I</p> <p>12 wasn't -- I can tell you right now, the</p> <p>13 Julian -- the Seth Rich case interested me only</p> <p>14 as far as whether Julian was -- how they got</p> <p>15 released, the emails, was -- was whether or not</p> <p>16 the Russians had something to do with it, as</p> <p>17 was -- as was being alleged at that time. I</p> <p>18 think around that time.</p> <p>19 Q. I -- I understand. My -- my</p> <p>20 question, though, is, you were -- you were</p> <p>21 being -- as far as you could, you were being</p> <p>22 truthful in speaking to Mr. Butowsky?</p> <p>23 A. Of course.</p> <p>24 Q. So I'm going to pick up the</p> <p>25 transcript again.</p>	<p style="text-align: right;">Page 131</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 (The clip was played.)</p> <p>3 BY MR. QUANTON:</p> <p>4 Q. Just so you can follow along, this</p> <p>5 one's going to start on page 15, line -- line</p> <p>6 4. We just heard him say "I can't even begin."</p> <p>7 A. Okay.</p> <p>8 (The clip was played.)</p> <p>9 BY MR. QUANTON:</p> <p>10 Q. So I think this is what you were just</p> <p>11 referring to, that you did speak with one of</p> <p>12 Julian Assange's associates; is that correct?</p> <p>13 A. Yeah, I -- I -- I mentioned -- I</p> <p>14 don't remember her name, but I mentioned the</p> <p>15 name early -- earlier. She was one of the</p> <p>16 people that, when Snowden was in trouble, she</p> <p>17 flew to Hong Kong and flew back with him. A</p> <p>18 young woman.</p> <p>19 Q. I see.</p> <p>20 A. Moved into that case very quickly and</p> <p>21 very, I think from his point of view, probably</p> <p>22 pretty smartly. And he moved in, and she flew</p> <p>23 in and flew back to him, to Russia. She got</p> <p>24 into Russia, I think. She was with him,</p> <p>25 anyway. And that -- that's the woman I talked</p>
<p style="text-align: right;">Page 132</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 to.</p> <p>3 Q. And what was that -- that woman you</p> <p>4 mentioned? Susan Harrington?</p> <p>5 A. No, I don't remember that name, so</p> <p>6 I'm wrong. There was another -- Atkins, or</p> <p>7 something like that. Somebody named Atkins, I</p> <p>8 think it was.</p> <p>9 Q. Cheryl Atkins. Cheryl Atkinson.</p> <p>10 A. I don't -- I don't know. Somebody</p> <p>11 who works for him. This is all public</p> <p>12 knowledge. There -- there would have been --</p> <p>13 there was a wonderful book written by -- by a</p> <p>14 British journalist that -- who works for the</p> <p>15 London Review of Books where I do a lot of</p> <p>16 writing, and he -- oh, something. And he did a</p> <p>17 book and she was all over it. That's what I</p> <p>18 remember her from.</p> <p>19 Q. And when you asked was there any</p> <p>20 money in the kid's finances, who is the -- "the</p> <p>21 kid" in that sentence?</p> <p>22 A. Obviously, clearly, I'm talking about</p> <p>23 Seth Rich.</p> <p>24 Q. And why are you asking that question?</p> <p>25 A. Again, let me take a look at it. Oh,</p>	<p style="text-align: right;">Page 133</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 yeah. I was saying, you know, if he -- if he</p> <p>3 wanted money, was there -- did he ever get --</p> <p>4 I -- I -- that's a rhetorical question. That's</p> <p>5 the way you'd look at it if you were looking at</p> <p>6 it, you were investigating it. Did he suddenly</p> <p>7 show up with a pile of money? That's always an</p> <p>8 easy way to do it.</p> <p>9 Q. And do you -- do you have any</p> <p>10 knowledge about any money being --</p> <p>11 A. No.</p> <p>12 Q. -- paid to any of the Rich brothers?</p> <p>13 A. No.</p> <p>14 (The clip was played.)</p> <p>15 BY MR. QUANTON:</p> <p>16 Q. I'm just going to -- I'm going to</p> <p>17 jump ahead because I don't have any questions</p> <p>18 on -- on this portion. Let me find the spot.</p> <p>19 (The clip was played.)</p> <p>20 MR. QUANTON: I'm sorry, I wanted</p> <p>21 to skip over this.</p> <p>22 (The clip was played.)</p> <p>23 MR. QUANTON: So this is page 18,</p> <p>24 line 9 is where we're picking it up</p> <p>25 again.</p>

<p style="text-align: right;">Page 134</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 (The clip was played.)</p> <p>3 BY MR. QUANTON:</p> <p>4 Q. So, Mr. Hersh, when you say it was</p> <p>5 all -- it's always Occam's razor, what do you</p> <p>6 mean by that statement?</p> <p>7 A. You don't really want to know what I</p> <p>8 mean, do you?</p> <p>9 Q. I do.</p> <p>10 A. Okay. What do you think Julian's</p> <p>11 game was with the -- with the -- with the</p> <p>12 Gmails and that earlier interview you showed</p> <p>13 Julian talking with the first reporter in</p> <p>14 London, and the early stories from The</p> <p>15 Washington Post about having these documents?</p> <p>16 What do -- what do you think heuristically,</p> <p>17 which is the way I think, what do you think it</p> <p>18 was about?</p> <p>19 Well, I'll tell you what I thought</p> <p>20 heuristically. I thought he was sending</p> <p>21 Hillary a message. I got this. When you get</p> <p>22 elected, which she looked very good, I want</p> <p>23 that pardon. That's what I thought the story</p> <p>24 was, in case you care at that point. I</p> <p>25 couldn't care less about Rich.</p>	<p style="text-align: right;">Page 135</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 I was very interested in that aspect</p> <p>3 because I know Julian has got an extremely high</p> <p>4 IQ, and he's quite brilliant. And his only way</p> <p>5 out, he knew the end was -- he's going to end</p> <p>6 up just where he is now. I -- I -- he could</p> <p>7 end up -- he could end up going to London. And</p> <p>8 London will probably extradite him to here, and</p> <p>9 he'll probably end up in a jail where there --</p> <p>10 he might not survive the Marines beating the</p> <p>11 crap out of him there.</p> <p>12 And that's -- that's something else</p> <p>13 that I think is very highly likely, and he</p> <p>14 certainly knows it. So he was looking for a</p> <p>15 way out. That's what I was thinking about</p> <p>16 heuristically. That's -- that was my basic</p> <p>17 interest in this whole thing. But I'm not</p> <p>18 going to get into that with him, and I'm not</p> <p>19 going to get into that with Larry.</p> <p>20 I'm getting into it with you because</p> <p>21 I'm just trying to explain some of the things I</p> <p>22 was doing because obviously I never wrote</p> <p>23 anything. I never said much of anything</p> <p>24 anymore about this. I clearly wasn't</p> <p>25 professionally interested, and -- and that's</p>
<p style="text-align: right;">Page 136</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 what I was interested in. It's something --</p> <p>3 it's just what makes me a pretty good reporter.</p> <p>4 I look at things a little differently than</p> <p>5 other people.</p> <p>6 I think Julian had a long game. And</p> <p>7 Julian is very smart, really smart, okay? A</p> <p>8 lot smarter than most people. And he had a</p> <p>9 long game. His only hope was Hillary winning</p> <p>10 and letting her know, I got stuff. That's what</p> <p>11 the whole thing was. And I'm just telling you</p> <p>12 that because -- all right, we just listened</p> <p>13 to -- to 10 minutes of -- from CNN LIVE,</p> <p>14 looking at the picture live, of total lunacy,</p> <p>15 total lunacy.</p> <p>16 Q. So I just -- I move to strike</p> <p>17 everything that you said after you just spoke</p> <p>18 to -- to 10 minutes of CNN.</p> <p>19 A. Oh, I had a hunch you would.</p> <p>20 MR. QUANTON: Okay, let's go on.</p> <p>21 (The clip was played.)</p> <p>22 BY MR. QUANTON:</p> <p>23 Q. You said when you first met Julian</p> <p>24 Assange -- earlier in your testimony, you said</p> <p>25 you met him once. Did you meet Julian on more</p>	<p style="text-align: right;">Page 137</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 than one occasion?</p> <p>3 A. Do you understand words, sir? With</p> <p>4 all due respect. That's the first time I met</p> <p>5 him. That -- it doesn't mean it's the first of</p> <p>6 20. It could just as easily mean the first and</p> <p>7 only time. The first -- literally, the words</p> <p>8 mean that's the first time I met him. I never</p> <p>9 met him since. But that's what the words say.</p> <p>10 They don't say that -- I didn't say the first</p> <p>11 of a long friendship with the guy. And I also</p> <p>12 said I wouldn't go near him when he was in</p> <p>13 Ecuador. That's also in the testimony. So the</p> <p>14 only way to read that, I had not read [sic] him</p> <p>15 any other time. Met him one day. He came to</p> <p>16 me. I was giving a talk at Padula, I think it</p> <p>17 was, some fancy resort. And I was giving a</p> <p>18 talk to a -- an international journalism</p> <p>19 conference. And he came up, and -- and I was</p> <p>20 having a sandwich. And he grabbed me, and we</p> <p>21 talked for half an hour. I found him</p> <p>22 fascinating, by the way.</p> <p>23 MR. QUANTON: Okay.</p> <p>24 (The clip was played.)</p> <p>25 BY MR. QUANTON:</p>

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2 Q. So, Mr. Hersh, you're saying to

3 Mr. Butowsky, I have somebody who will go and

4 read a file for me.

5 A. Yeah, well, or have a file read for

6 me is another way to interpret it. I -- I --

7 I'm not saying it happened. I just have

8 somebody who will read one. In that case, it

9 didn't happen. I have people.

10 (The clip was played.)

11 BY MR. QUAINTON:

12 Q. Now, this person who is unbelievably

13 careful and accurate, that is source one;

14 correct?

15 A. Yes. Source one. I want -- I want

16 to repeat again, as I said earlier in my

17 testimony, I never print anything from source

18 one without force [sic] two and sometimes, if

19 it's really important, source three.

20 Q. Got it.

21 (The clip was played.)

22 BY MR. QUAINTON:

23 Q. Now, Mr. Butowsky is kind of pressing

24 you to get a copy of the report. And you don't

25 tell him, Mr. Butowsky, there is no -- you

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2 never know if there's a --

3 A. I -- I can't hear you, counselor.

4 Your voice has gone down. Can you hear me?

5 Q. -- hear you. Can you --

6 MR. BOWMAN: -- hear you.

7 THE REPORTER: You're very, very

8 hard for me to hear.

9 THE WITNESS: Who, me?

10 THE REPORTER: The questioning

11 attorney.

12 THE WITNESS: Yeah, it's -- the --

13 you've disappeared a little bit.

14 MR. QUAINTON: The volume is up to

15 the maximum it --

16 THE REPORTER: No, it's too light

17 for us -- for me to hear you.

18 MR. QUAINTON: I think it's -- can

19 you hear me at all now?

20 THE REPORTER: Vaguely.

21 MR. QUAINTON: What do you suggest

22 I do? Let's go off the record.

23 THE VIDEOGRAPHER: The time is

24 2:20 p.m. We're off the record.

25 (Discussion held off the record.)

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2 know, I don't know whether there's a report or

3 not, a physical report. You -- you -- do

4 you -- do you tell him, Mr. Butowsky, I don't

5 know whether there's a physical report?

6 MS. GOVERNSKI: Objection.

7 MR. BOWMAN: Objection.

8 A. Again, the concept of the word

9 "report" is -- is in -- as -- as I told you, a

10 report to me is not always physical. And if I

11 left the wrong impression, that's a terrible

12 mistake, and I'm sorry. But I -- I -- at no

13 time did I think I had -- anybody had seen a

14 report, or there was such -- you know, I have

15 reason to believe there is a report, but I

16 don't have any reason to think -- when my

17 friend says "a report" to me, it doesn't mean

18 he saw a report. He gets information, and

19 that's called a report in the business by many

20 people.

21 (The clip was played.)

22 BY MR. QUAINTON:

23 Q. You're mentioning --

24 A. Wait, wait. Speak up.

25 Q. Yes. In what we just read, you say I

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2 THE VIDEOGRAPHER: The time is

3 2:21 p.m. We are on the record.

4 BY MR. QUAINTON:

5 Q. Yes, Mr. Hersh, I was asking -- this

6 was on the top of page 22 on the transcript,

7 lines 4 to 5 --

8 A. Yeah.

9 Q. -- saying "If there's a marking or a

10 phrase that would trigger who, where it came

11 from," what are you referring to?

12 A. Well, I -- yeah, earlier in that

13 sentence, in that paragraph, I said I -- I'll

14 tell you something I learned a long time ago.

15 I do have some amazing shit. I mean, I just --

16 I'm -- I have an office full of documents I've

17 never made public or -- nor will never make

18 public from various agencies just because I

19 never know what marking might be on it or what

20 phrasing might be on it that would trigger who,

21 where it came from.

22 So I was talking -- I mean, that's

23 just -- I -- I think that's the only way to

24 read what I said. I -- I don't -- because I

25 never know a marking. I was talking clearly

<p style="text-align: right;">Page 142</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 about other things, not only -- you know,</p> <p>3 just --</p> <p>4 Q. Mr. --</p> <p>5 A. -- generically how I handle stuff.</p> <p>6 Q. Mr. Butowsky is asking you about the</p> <p>7 report, and your answer is, "You know, I never</p> <p>8 know if there's a marking or phrase that will</p> <p>9 trigger who, where it came from." So it, just</p> <p>10 in the context here, it sounds like you were</p> <p>11 at -- you were responding to his question on</p> <p>12 page 21, 16 to 17, "Any way we can get our</p> <p>13 hands on the report?"</p> <p>14 A. Well --</p> <p>15 MS. GOVERNSKI: Objection.</p> <p>16 MR. BOWMAN: Objection. That's not</p> <p>17 a question.</p> <p>18 MR. QUAINTON: Put a question mark</p> <p>19 at the end of my statement -- my</p> <p>20 question.</p> <p>21 A. Well, what -- well, what is your</p> <p>22 question? Was -- was I talking about a</p> <p>23 document I've testified repeatedly to I never</p> <p>24 had, never saw, don't think exists as far as I</p> <p>25 know? I'm not sure what my part -- what my</p>	<p style="text-align: right;">Page 143</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 source note -- if you're asking about that</p> <p>3 document, I couldn't have made a -- been</p> <p>4 responding, talking about markings on it. So I</p> <p>5 was -- had nothing to do with that paper. I</p> <p>6 was talking generically about what happens with</p> <p>7 documents.</p> <p>8 Q. Okay.</p> <p>9 A. Again, counselor, a report for me is</p> <p>10 not always a piece of paper. In my world that</p> <p>11 I live in, I -- I don't -- I don't like pieces</p> <p>12 of paper. I almost never write it from a</p> <p>13 document because that could trigger who it goes</p> <p>14 back to. So this is just a generic -- it's</p> <p>15 just a precaution I take, which leads me to not</p> <p>16 write a lot of stuff I know, not in this case,</p> <p>17 but in other cases.</p> <p>18 Q. I understand your -- your testimony,</p> <p>19 Mr. Hersh, and -- and I --</p> <p>20 A. Yes, well --</p> <p>21 (The clip was played.)</p> <p>22 BY MR. QUAINTON:</p> <p>23 Q. So here, there's a reference to Flynn</p> <p>24 you just heard. Would that be -- would that be</p> <p>25 Mike Flynn, Michael Flynn?</p>
<p style="text-align: right;">Page 144</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 A. Of course. Yes, it would be Michael</p> <p>3 Flynn.</p> <p>4 Q. So we were going back to try to pin</p> <p>5 down the timing of this audio. If you just</p> <p>6 reread this, I think you testified earlier that</p> <p>7 your recollection was refreshed that audio had</p> <p>8 to be after the inauguration because you</p> <p>9 mentioned Women's March and the -- the pink</p> <p>10 hats.</p> <p>11 So here, when you're speaking about</p> <p>12 what Flynn is going to do, does that help</p> <p>13 situate when this conversation would have</p> <p>14 occurred?</p> <p>15 MS. GOVERNSKI: Objection.</p> <p>16 A. I can't imagine why that would. Tell</p> <p>17 me what -- what about Mike Flynn was -- he'd</p> <p>18 been named in -- in -- in -- he was the first</p> <p>19 appointee of -- of Trump as National Security</p> <p>20 Advisor --</p> <p>21 Q. He didn't --</p> <p>22 A. -- and -- and if he --</p> <p>23 Q. Mr. Hersh, he didn't last very long</p> <p>24 in that role, did he?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 145</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 MS. GOVERNSKI: Objection.</p> <p>3 Q. So you would not have said this if he</p> <p>4 were out of the role of National Security</p> <p>5 Advisor; isn't that correct?</p> <p>6 A. I -- what?</p> <p>7 MR. BOWMAN: Objection.</p> <p>8 A. I beg your pardon?</p> <p>9 Q. If -- if Mr. Flynn has been fired</p> <p>10 already, you would not say Flynn is going to up</p> <p>11 that surveillance.</p> <p>12 A. But -- but -- but don't we know</p> <p>13 pretty much --</p> <p>14 MS. GOVERNSKI: Objection.</p> <p>15 MR. BOWMAN: Objection.</p> <p>16 THE WITNESS: Just the --</p> <p>17 counselor, the --</p> <p>18 MR. BOWMAN: That's not what it</p> <p>19 says, actually.</p> <p>20 A. Yeah, we know the -- the conversation</p> <p>21 took place, it seems like, in May, if I'm -- if</p> <p>22 I'm -- as I go back into this. There's --</p> <p>23 there's evidence that it took place sometime in</p> <p>24 May. There was emails written and stuff like</p> <p>25 that. I don't quite understand what Flynn --</p>

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2 Flynn's problem had to do with it.

3 I knew a lot more of Flynn than I --

4 I -- if -- if you're saying did I know more

5 about the Flynn case then, yes. I knew the

6 stuff that blew up. Now, I knew that for

7 years, what Flynn was doing, what he was doing.

8 He was doing bad stuff inside. Big deal. I

9 don't --

10 Q. I'm just trying --

11 A. I don't understand what the point of

12 the question is.

13 Q. Point of the question is simply to

14 try to locate -- I mean, to try to get your

15 best recollection of when this conversation

16 occurred. And I -- I don't believe there are

17 any references to May in this transcript. We

18 may see something later, but my only -- my only

19 question -- we don't have to belabor this, but

20 I think just you'd agree with me, I think, as a

21 matter of logic, if you're speaking about

22 something Flynn may do in the future, Flynn has

23 not been fired yet. Wouldn't that be a logical

24 kind of conclusion from what you just said?

25 A. I --

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2 that's all I'm -- that might have been

3 something I -- I -- that's what my reference

4 is. The surveillance was post surveillance.

5 It wasn't public yet. I wasn't showing off, I

6 just mentioned it because nobody could

7 understand that. They're going to up the

8 surveillance. I'm sure they were talking about

9 the fact that they were all over him.

10 Q. Fair enough.

11 (The clip was played.)

12 BY MR. QUANTON:

13 Q. Again, Mr. Hersh, you say, "I can't

14 get the report."

15 A. Yep.

16 Q. Just to be clear, you don't say to

17 him, you don't clarify for him what you're

18 clarifying for us today in this testimony, that

19 what you mean by "report" is not what a

20 layperson like Mr. Butowsky would understand to

21 be a report; is that correct?

22 A. I -- I -- any interpretation you

23 want. The report I'm talking about was not

24 necessarily a physical report. I've said that

25 from the beginning. That's just what I was --

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2 MS. GOVERNSKI: Objection.

3 A. I don't know what course you took in

4 Logic 101, but you're not making any sense to

5 me. That's absolutely a meaningless sentence.

6 Of course I --

7 Q. Why's that?

8 A. I didn't -- why? Because Trump was

9 President now. Why? He was out within three

10 weeks.

11 Q. So why would -- how would Flynn have

12 been upping the surveillance shit if he was out

13 of office?

14 A. Mr. --

15 Q. And how can you explain that?

16 A. Mr. --

17 Q. How does that make it sound?

18 A. -- are imprecise words. I was

19 talking about surveillance on him. The FBI

20 was -- had wiretapped him, and I knew that

21 already. It wasn't the NSA. The wire -- they

22 wiretapped him. All the stuff that's come out

23 in the press recently about the unwarranted

24 wiretapping and -- on him was done by the FBI,

25 and I -- and I just happened to know that. And

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2 I was consistent with my language. I'm sorry I

3 didn't say "the putative," but I didn't.

4 (The clip was played.)

5 BY MR. QUANTON:

6 Q. Now, when you say, Mr. Hersh, "This

7 is the reason I'm pushing it," what is the

8 antecedent for the word "it"? What is it that

9 you're pushing?

10 MS. GOVERNSKI: Objection.

11 A. My work on whether or not Russia --

12 trying to verify and do something publicly

13 about the fact that the case against Russia was

14 pretty much, in my view, hokum. That's the

15 only "it" I could think of.

16 (The clip was played.)

17 BY MR. QUANTON:

18 Q. Mr. Hersh, at this point in the

19 conversation you appear to shift gears and now

20 you ask Ed Butowsky, do you know anything more?

21 Do you -- do you recall what type of

22 information you were hoping that Mr. Butowsky

23 might know about?

24 A. Yeah, I have to --

25 MS. GOVERNSKI: Objection.

<p style="text-align: right;">Page 150</p> <p>HERSH - CONFIDENTIAL</p> <p>A. Yeah, sure. I do. I also have to add that you wouldn't know somebody as potty-mouth as me read Forsyth, but that's -- that's okay. There are a lot of contradictions in the world. Yes, I know there -- yes, I have an idea. Yes. The answer's yes.</p> <p>Q. And so what -- what were you trying to -- what information were you trying to get from Mr. -- Mr. Butowsky?</p> <p>A. Well, Larry told me -- one of the things that induced me to talk to -- to Ed on behalf of -- on Ed's -- on Larry's behalf, besides the fact he's a friend looking for business, Larry told me he knew something about the Russia connection. And he did not.</p> <p>Q. So to the best of your recollection, Larry told you that -- that Mr. Butowsky knew something about --</p> <p>A. No, he said he's been working this stuff for a long time. And -- and Larry agreed with -- Larry worked for both the CIA, and he had a very big job -- most people don't know this -- in the -- in the State Department on counterinsurgency. He was basically a player.</p>	<p style="text-align: right;">Page 151</p> <p>HERSH - CONFIDENTIAL</p> <p>And he also was -- for a main -- he was -- he ran war games for the Joint Special Operations Command, which is the most -- one of the most secret units in America. He ran war -- he ran their war games and spent time abroad doing things. He was a -- a -- a very interesting guy. And he knew I was interested in Russia. He was skeptical of Russia and so that's -- that's one of the reasons I was being so egregious.</p> <p>Q. Were you interested in what Mr. Butowsky might know about Seth Rich?</p> <p>A. -- guy, and he would share what he knew. No, I didn't care about Rich.</p> <p>Q. You -- you didn't -- you -- when -- so when you spoke to him, when you were asking him what do you know, do you know anything more, your testimony is you were -- you were not interested in what Mr. Butowsky might know about Seth Rich?</p> <p>A. I -- I can't remember any specific sentence. I've read the transcript. I know what my interest was. And one of the reasons I did call him was because I was told he had</p>
<p style="text-align: right;">Page 152</p> <p>HERSH - CONFIDENTIAL</p> <p>some -- he had some very -- he had been working in the Russian -- and -- and there's some evidence that he did have some information about it. At least he said he did. I was hoping to convince him I was a good guy and you could share with me. I -- I -- I didn't -- my mistake was I didn't know much about him. I only knew that he was a wealthy man who helped out the football players in -- of the -- the Denver Cowboys if they ran into money trouble. I read a few clips on him, and he was a very generous man, the whole football players that ran into trouble. So I thought he was a pretty good guy. Oil guy.</p> <p>(The clip was played.)</p> <p>BY MR. QUAINTON:</p> <p>Q. This is page 29, line 12?</p> <p>A. Yeah.</p> <p>Q. Tell -- "Tell me what you know." To the best of your recollection, what -- what you're interested in is Russian hack and not Seth Rich specifically. Is that -- is that fair?</p> <p>A. Well, the --</p>	<p style="text-align: right;">Page 153</p> <p>HERSH - CONFIDENTIAL</p> <p>MS. GOVERNSKI: Objection.</p> <p>A. That was -- there -- there were -- I -- it -- it was a conversation three years ago. I have a lot of conversations with people like this, and I -- you always try to en -- en -- enchant them into information. And -- and there's no question that Ed -- I -- I'm just reading on for a couple pages where he says, "And then the whole thing came up about the hacking with the Russians." And I was --</p> <p>Q. Well, let's get --</p> <p>A. -- looking --</p> <p>Q. -- to that.</p> <p>A. -- looking at what happened. I mean, it was clear that's what I was interested in. And --</p> <p>Q. Well, let's --</p> <p>A. -- too.</p> <p>MR. BOWMAN: Please let the witness answer the question.</p> <p>A. He says so later in the -- on -- two pages later. I just happened to be -- while we were watching CN LIVE, I happened to read some more of your transcript. He said, well, right</p>

<p style="text-align: right;">Page 154</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 there. I mean, it sort of answers your own</p> <p>3 question, you know. I got into this, he said,</p> <p>4 because the whole thing came up over the</p> <p>5 hacking with the Russians, and I happened to</p> <p>6 have been looking into it when it happened.</p> <p>7 And I was -- you know, and I thought he -- I --</p> <p>8 I -- I thought he actually -- I -- I thought he</p> <p>9 was a lot smarter than I think he turned out to</p> <p>10 be, or at least smarter about this, this issue.</p> <p>11 And so that's the genesis of what happened.</p> <p>12 Very little to do with Rich, but there you go.</p> <p>13 Q. Mr. Hersh, I'm going to -- I'm going</p> <p>14 to move to -- to strike that as nonresponsive</p> <p>15 from everywhere you said you've seen two pages</p> <p>16 ahead. Let's just go ahead.</p> <p>17 (The clip was played.)</p> <p>18 BY MR. QUAINTON:</p> <p>19 Q. So, Mr. Hersh, when you respond to</p> <p>20 the information from Mr. Butowsky that Julian</p> <p>21 Assange -- that Julian Assange had received</p> <p>22 emails from Seth Rich, you respond, "Whoa." So</p> <p>23 would you -- would you -- is it fair to say</p> <p>24 that you were interested in that information</p> <p>25 that was being communicated to you?</p>	<p style="text-align: right;">Page 155</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 A. It is fair to say I -- I wonder</p> <p>3 what --</p> <p>4 MS. GOVERNSKI: Objection.</p> <p>5 A. Well, are -- I did see I asked a</p> <p>6 couple lines later, was he trying to make her?</p> <p>7 That's all he thinks about, so --</p> <p>8 Q. Yeah, Mr. Hersh, I'm not talking</p> <p>9 about a couple --</p> <p>10 A. That's my --</p> <p>11 Q. -- lines later.</p> <p>12 A. -- response to that. My interest in</p> <p>13 that was -- was, I guess, you know, in the</p> <p>14 gutter maybe.</p> <p>15 Q. Your interest was -- so --</p> <p>16 A. Are you going to strike that, please?</p> <p>17 (The clip was played.)</p> <p>18 BY MR. QUAINTON:</p> <p>19 Q. Just to be clear, so the -- the</p> <p>20 record is clear, at this point in the</p> <p>21 conversation, there's -- there's nothing</p> <p>22 salacious being discussed, is there, just in --</p> <p>23 A. I'm ahead -- I'm sorry, I got ahead</p> <p>24 of you.</p> <p>25 MS. GOVERNSKI: Objection.</p>
<p style="text-align: right;">Page 156</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 Q. Please don't skip ahead. Just where</p> <p>3 we are now. In what Mr. Butowsky is telling</p> <p>4 you on page 29 from lines 18 to 22, there's</p> <p>5 nothing salacious or scurrilous in those four</p> <p>6 lines, is there?</p> <p>7 MS. GOVERNSKI: Objection.</p> <p>8 MR. BOWMAN: Objection. The record</p> <p>9 is what it is.</p> <p>10 MR. QUAINTON: My question is what</p> <p>11 it is.</p> <p>12 A. Well, I could just answer by saying</p> <p>13 look, when I'm -- when I'm told that Julian</p> <p>14 Assange told a friend of mine who told somebody</p> <p>15 else who told somebody, and I go whoa, I'm</p> <p>16 getting into -- I was -- I knew I was getting</p> <p>17 into la-la land, if you want to know the truth,</p> <p>18 period. That's all. What can I tell you?</p> <p>19 That, I do remember. We got into la-la land</p> <p>20 pretty quickly when he starts talking about</p> <p>21 somebody who told somebody who told somebody,</p> <p>22 so there we go. I mean, you know, I -- I</p> <p>23 honestly -- I hate to tell you this. I didn't</p> <p>24 take this all very seriously. And I would have</p> <p>25 passed it if he hadn't put it on the air, but</p>	<p style="text-align: right;">Page 157</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 he did.</p> <p>3 Q. Okay, so --</p> <p>4 A. No, so my --</p> <p>5 Q. So you didn't put much credence in</p> <p>6 what he just told you there; is that --</p> <p>7 A. When someone --</p> <p>8 Q. -- correct?</p> <p>9 A. When somebody you -- I'm told knows a</p> <p>10 lot about something by a friend of mine that</p> <p>11 would -- works -- worked at very high levels --</p> <p>12 Larry was not a small fry in the intel</p> <p>13 community -- says, I got a guy that knows a</p> <p>14 lot, and he says I know somebody who told --</p> <p>15 Assange told somebody who told a friend of</p> <p>16 mine, I say, whoa, Larry what are you getting</p> <p>17 me into? That "whoa" tells me a lot. I</p> <p>18 remember that. I remember the "whoa." You</p> <p>19 know, la-la land.</p> <p>20 Q. All right.</p> <p>21 A. But there --</p> <p>22 Q. Not -- not -- no -- there was no</p> <p>23 genuine interest in what he was telling you, is</p> <p>24 that fair, at that point in the conversation?</p> <p>25 A. Oh, no, I --</p>

<p style="text-align: right;">Page 158</p> <p>HERSH - CONFIDENTIAL</p> <p>MS. GOVERNSKI: Objection.</p> <p>A. It -- it -- it didn't matter whether it was genuine interest. At that -- that kind of -- there was certainly no interest in those kind of statements, you know. It's thirdhand information, secondhand information. There just wasn't any interest. "Whoa" is -- I mean, I -- I didn't want to be rude to the guy, okay?</p> <p>Q. There was no interest in --</p> <p>A. He didn't know what I thought he knew, and -- and -- and -- and this -- it -- it -- it doesn't matter whether -- we are where we are. So keep on asking questions, and the answer is I -- I -- I thought -- I was told he had done a lot of work on the Russia deal, and --</p> <p>Q. I'm --</p> <p>A. -- I'm --</p> <p>Q. Yeah, I'm just trying to make clear that the -- leaving aside the -- the second- or thirdhand aspect of what Mr. Butowsky says to you, the -- the content of what he has communicated, that he has information about Seth Rich giving the emails to Julian Assange,</p>	<p style="text-align: right;">Page 159</p> <p>HERSH - CONFIDENTIAL</p> <p>that content was not interesting to you. Is that -- I just want to make sure I understand your testimony. Is that -- is that true? The content --</p> <p>MS. GOVERNSKI: Objection.</p> <p>MR. BOWMAN: Objection.</p> <p>Q. -- of what Mr. Butowsky was communicating was not interesting to you?</p> <p>A. As -- as it -- the whole thing wasn't interesting to me as a journalist. It was interesting that he said that about Assange, because I did -- I did go and wonder what -- you know, I told you I was interested in -- in what Assange was doing. And I called somebody. And that name that's in the transcript of Sarah Harrison, is -- would that -- is that the name you were talking -- did you mention that earlier?</p> <p>Q. Susan Harrington? Was that it? Or Susan Harrison?</p> <p>A. I had it -- I had it wrong. It was Sarah Harrison.</p> <p>Q. Sarah?</p> <p>A. Yeah, Sarah's the one I -- Sarah was</p>
<p style="text-align: right;">Page 160</p> <p>HERSH - CONFIDENTIAL</p> <p>the -- she's the one I think that flew down with -- with Snowden. And I -- I -- I know a lot about Snowden. I mean, I -- I talked to him in Moscow and stuff like that. That's a separate issue. And so I was interested in if -- if Sarah had actually said something like that, that would be interesting to me. And I called and the -- the answer was, you know, the answer was no.</p> <p>Q. I see.</p> <p>A. I just called --</p> <p>Q. And you thought he was -- thought he was referring perhaps to Sarah Harrison. He was -- you thought Mr. Butowsky was perhaps referring to Sarah Harrison?</p> <p>A. No, no, no. The woman he was referring to, I don't know. I mean, the -- the name Ratner came up much later in all their conversations, Ellen Ratner. But I -- I never met her and I never talked to her, so I didn't know that name then. But I did know Sarah, because -- I just knew Sarah, because she was very close to Julian in the whole process. As I said, she's the one that took Snowden -- flew</p>	<p style="text-align: right;">Page 161</p> <p>HERSH - CONFIDENTIAL</p> <p>with him, Hong Kong. So I was -- and I did get called -- I did use people to get to him. I thought it would be a good idea for him if he just told somebody Russia didn't do it if the Russians hadn't do [sic] it. But I, you know, I also knew he had some other game going and that he was never going to give it up, because I -- I was pretty sure his game was the -- the big play with Hillary.</p> <p>Look, I didn't like Hillary at all. And the only thing about Trump that interested me was, unlike Hillary, he didn't call Putin a Hitler. She did. And I -- I just thought the only thing once -- I did -- I wrote -- wouldn't vote for Trump in a hundred years, so once he got in, I thought the only saving grace for this guy would be that he was going to listen to Maddis, who was a lot smarter than people think. He's a -- he's actually a -- a scholar on things like the Peloponnesian War and ancient history. He really is quite, quite sophisticated on it, reads a lot on it.</p> <p>You know, Marines are strange people. You know, a lot of them wanted to be priests</p>

<p style="text-align: right;">Page 162</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 and -- and popes, but they ended up joining the</p> <p>3 priesthood, which was the Marine Corps, and so</p> <p>4 it's another priesthood. And so that was my</p> <p>5 interest in -- in -- in -- in -- the ultimate</p> <p>6 interest in this once I started talking to the</p> <p>7 guy.</p> <p>8 Q. Okay.</p> <p>9 A. You can strike that.</p> <p>10 (The clip was played.)</p> <p>11 BY MR. QUANTON:</p> <p>12 Q. So we're on top of page 32 of the</p> <p>13 transcript, line 8. Sorry, line 7. "So I have</p> <p>14 a -- a -- what they call long-form journalism."</p> <p>15 Could you just explain to me, what is -- what</p> <p>16 is long-form journalism?</p> <p>17 A. Well, you see there I was writing --</p> <p>18 I said it was a Brennan operation. And if you</p> <p>19 paid attention to what's been written about the</p> <p>20 investigation going on about Mr. Durham, about</p> <p>21 who you asked me about, who's the -- the -- the</p> <p>22 Democratic prosecutor who's doing the</p> <p>23 investigation into alleged abuses basically by</p> <p>24 the Democrats, really about the CIA now, you'll</p> <p>25 see that that's what I was talking about.</p>	<p style="text-align: right;">Page 163</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 I knew a great deal about it three</p> <p>3 years ago, and that's just what I do. I just</p> <p>4 collect information because it leads me to</p> <p>5 other information if I wait and get a</p> <p>6 narrative. In other words, for me, a -- an</p> <p>7 ordinary story is 7- to 10,000 words. It's not</p> <p>8 just a 1,500-word news story telling --</p> <p>9 repeating what somebody told you yesterday</p> <p>10 in -- you know, somebody in the government gave</p> <p>11 you. And so that's what I do. And so my</p> <p>12 intention all along -- this -- this whole thing</p> <p>13 emerged out of -- out of -- of the -- the -- my</p> <p>14 only information was what it -- what I wanted</p> <p>15 to get, besides being nice to Larry, is I</p> <p>16 thought if -- if this guy had some information.</p> <p>17 And he did say he didn't think it was the real</p> <p>18 thing, but I didn't find that very credible. I</p> <p>19 didn't think he knew anything credibly, and so</p> <p>20 there we are.</p> <p>21 But what I did say in -- in that</p> <p>22 conversation with him was on -- online when we</p> <p>23 looked at it -- haven't looked at it in two</p> <p>24 years until I read this. What I did say is, I</p> <p>25 hate to tell you, it's going to be -- it's</p>
<p style="text-align: right;">Page 164</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 going to be a real problem for the Democrats if</p> <p>3 it comes out before the election, which it may</p> <p>4 not.</p> <p>5 Q. So was that --</p> <p>6 A. I was just in a different world than</p> <p>7 you think I was at this point. But you want to</p> <p>8 strike that too.</p> <p>9 Q. No, I don't want to strike it.</p> <p>10 I'm -- I -- I'm not -- I find it -- I -- I</p> <p>11 don't want to strike it at all. I want to</p> <p>12 just -- I just want to ask you some more</p> <p>13 questions about -- and, you know, the language</p> <p>14 is what it is, but about how the -- the whole</p> <p>15 fucking thing began. And -- and I guess the</p> <p>16 question I had is --</p> <p>17 A. What part are you talking about?</p> <p>18 Q. This is page 32, line -- lines 8 --</p> <p>19 A. Yeah, I see. I got it, where the</p> <p>20 whole fucking thing began, it's a Brennan</p> <p>21 operation, yes.</p> <p>22 Q. What -- what are you referring to</p> <p>23 there?</p> <p>24 A. I probably knew in August of 2016</p> <p>25 that there was a -- a very dumb paper</p>	<p style="text-align: right;">Page 165</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 circulated by somebody in the -- what's the</p> <p>3 name of that -- the -- it's -- it's the Cabinet</p> <p>4 level, that -- that controls the --</p> <p>5 Q. FBI?</p> <p>6 A. What?</p> <p>7 Q. No, that's not --</p> <p>8 A. The one that controls the TSA. What</p> <p>9 is it called?</p> <p>10 MR. BOWMAN: The FBI?</p> <p>11 A. No, no, no, no, no. Much lower. The</p> <p>12 Cabinet level that was created after 9/11. It</p> <p>13 was a big Cabinet and they put all of these --</p> <p>14 Q. Homeland?</p> <p>15 A. Homeland Security. Homeland Security</p> <p>16 had a SIGINT operation. They had a signals</p> <p>17 intelligence operation and they circulated --</p> <p>18 I'm just going to give you a long answer</p> <p>19 because you asked me a question. They</p> <p>20 circulated a paper in late August saying that</p> <p>21 they had reason to think two precincts were</p> <p>22 broken into. It looks like they -- they</p> <p>23 were -- came from Russia break-ins for which</p> <p>24 there was no evidence. Somebody broke in,</p> <p>25 hacked into two precincts, get -- getting the</p>

<p style="text-align: right;">Page 166</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 names of the people registered, or something</p> <p>3 like that. One was in Arizona, the other one</p> <p>4 was in Illinois or some -- middle west</p> <p>5 somewhere.</p> <p>6 And so they circulated a paper</p> <p>7 that -- to the agencies that was just a</p> <p>8 unclassified paper. And Brennan made a big</p> <p>9 push on it. Classified, it's an issue, let's</p> <p>10 get on this. And that's the first time I got</p> <p>11 interested in what the hell's going on here?</p> <p>12 What the -- what's -- you know, it's a long</p> <p>13 story, but the CIA is a Cold War agency. And</p> <p>14 the way you make money and get budgets in the</p> <p>15 CIA is you have to have a Russian enemy.</p> <p>16 That's what it's been -- that's what it's been</p> <p>17 for 50 years. If there was no KGB and no CIA</p> <p>18 we'd be better off. They both were playing</p> <p>19 against each other.</p> <p>20 So you create a Russian threat. You</p> <p>21 know, we're a country that said in -- to Jack</p> <p>22 Kennedy had -- in -- in his campaign said</p> <p>23 the -- the Russians have 2,000 missiles when</p> <p>24 they had three. Three. Three, maybe four. I</p> <p>25 mean, that's the kind of stuff that goes on.</p>	<p style="text-align: right;">Page 167</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 And so that's what I was doing. I was always</p> <p>3 interested in that.</p> <p>4 And once she won -- once she lost,</p> <p>5 there was not much I could -- I still keep -- I</p> <p>6 still follow it, but I -- I don't think I'll</p> <p>7 ever write anything. I found bits that</p> <p>8 troubles me, but that's the way it goes. And</p> <p>9 so I just collect stuff. That's what I --</p> <p>10 Q. So --</p> <p>11 A. -- do. It's a great job I have. I</p> <p>12 can just do what I want, sit in my office and</p> <p>13 read stuff and call people. And, yeah, fucking</p> <p>14 cocksucker Rogers was telling them we knew what</p> <p>15 was in the GRU.</p> <p>16 Q. Well, let's -- before we get to that,</p> <p>17 I mean, you are -- you already --</p> <p>18 A. You got what you need, don't you,</p> <p>19 lawyer? I mean, you got --</p> <p>20 Q. My name is Eden. But I'm almost done</p> <p>21 with this. And -- and -- and no, I'm not quite</p> <p>22 finished.</p> <p>23 When you say "It's a Brennan</p> <p>24 operation," are you -- just specifically, are</p> <p>25 you referring to the Russian hacking --</p>
<p style="text-align: right;">Page 168</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 A. No.</p> <p>3 Q. -- narrative?</p> <p>4 A. I'm referring to the fact it was a</p> <p>5 formal CIA disinformation operation that the</p> <p>6 stupid Brennan created with a budget and a --</p> <p>7 and a point and involved a lot of falsehoods.</p> <p>8 The FISA court has it. Durham -- Durham has</p> <p>9 it. They're probably not going to prosecute a</p> <p>10 former CIA Director because he has too much</p> <p>11 information about operations. He's not</p> <p>12 necessarily out to screw the -- the American or</p> <p>13 violate national security, he just wanted</p> <p>14 payback after Trump won. But they started</p> <p>15 keeping -- that's -- that's what was going on.</p> <p>16 And Rogers, the NSA guy, was involved</p> <p>17 in telling certain people that -- oh, even</p> <p>18 Putin himself was directing this, the leaks.</p> <p>19 Putin himself, the -- the picture that Putin</p> <p>20 himself, you know -- you know, counselor --</p> <p>21 counselor, listen a second. We had a bounty</p> <p>22 story. The Taliban were being paid for every</p> <p>23 American they kill. So me, I would look at it</p> <p>24 and say, well, so what is -- I mean, the</p> <p>25 Russians were doing it. Never mind that we've</p>	<p style="text-align: right;">Page 169</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 had stories for 10 years that the Russians are</p> <p>3 supporting the Taliban because the Taliban</p> <p>4 created a lot of poppy, which turns into --</p> <p>5 to -- to heroin that's driving -- that's a big</p> <p>6 issue for the Russians. Much worse. They're</p> <p>7 polluted with it.</p> <p>8 So they gave them money to stop them</p> <p>9 from farming, and they also gave them money</p> <p>10 because the Taliban don't turn out to like</p> <p>11 people like ISIS. They don't like crazies. So</p> <p>12 the Russians are doing the same thing we would</p> <p>13 do. And so what -- what can I tell you?</p> <p>14 The -- the -- the fact of the matter is the</p> <p>15 questions you would ask if I'm in the New York</p> <p>16 Times and somebody in government tells you</p> <p>17 they -- they're collecting body -- the Taliban</p> <p>18 are very mercantile. So I say, okay, so what</p> <p>19 is it? If you get an ear of -- of an American</p> <p>20 commando and you take it to Moscow, is that 50</p> <p>21 rubles? Or if -- if -- if they get paid for a</p> <p>22 body, an American body, do you have to deliver</p> <p>23 it personally to Putin, or -- or can -- can you</p> <p>24 use an iPhone picture? That's the kind of</p> <p>25 questions I would ask about this.</p>

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Three Americans have been killed in -- in the Taliban -- in the war in Afghanistan in the last nine months. I mean, believe me, if there was a bounty on Americans, we'd be flooded with dead Americans. The Taliban would be ripping them off even for 200 bucks a body. I mean, it's just a crazy story. So I know these things. I can't always write them, but I know it. I knew the Russian thing was bad, so I was interested in Ed, and I thought maybe he knew something because Larry suggested to me very strongly he did. And Larry wanted me to call him because Larry was trying to get a contract.

THE REPORTER: I'm sorry, sir, I must ask you to slow down.

THE WITNESS: Okay.

THE REPORTER: And counsel, I will need a break soon. Thank you.

BY MR. QUAINTON:

Q. Okay, let -- let -- sorry. Mr. Hersh, I -- I appreciate -- and I'm not going to strike it from the record. I appreciate that you're interested in the bounty

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Rich in any way. I was talking about the Russian thing. And I was very horribly troubled by that because it existed as a fact. And not that I like to -- I shouldn't say that much, but that's the way it is.

MR. QUAINTON: Let's move on. So we're going to -- we're -- court reporter needed a break. We'll be done very soon.

(The clip was played.)

BY MR. QUAINTON:

Q. Mr. Hersh, you say here, "I have been doing this story because I smelled it in -- in late August." Are you -- what are you referring to when you say "I have been doing this story since late summer"?

A. I -- I think I just told you.

MR. BOWMAN: Objection, asked and answered, but you can answer it again.

A. Yeah, I told in you late August I first ran into some evidence that the Homeland Security people were circulating a -- a paper about some break-ins at some precincts. That's -- that's the reference to it. I -- I'm

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story. And just for the record, I think it's bullshit as well. But that is not why we're here today. The reason that we're here --

MS. GOVERNSKI: Objection.

Q. The reason we're here is the transcript and the audio of the conversation you had with Mr. Butowsky. And in that, one of the things that you say is that -- this is on 32, lines 11 and 12 -- is, "It was an American disinformation." And I'm just trying to make sure I understand what you're referring to there. You say, "It was an American disinformation." Is the -- is the antecedent to "it" the Russian hacking, Russian influencing the elections? Is that what the antecedent to the "it" is?

A. I -- I -- I --

MS. GOVERNSKI: Objection.

A. Just so you know, I mean, I -- I -- I just -- my reading the line before, it was a Brennan operation, I just told you, sort of that long soliloquy I just gave you sort of answered that question. That's what I was talking about. I wasn't talking about Seth

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totally talking about Russia at this point. I mean, that -- done with Butowsky, with that -- the kid.

Q. Okay. And when you say "the kid," you mean Seth Rich?

A. Yeah, I'm done with that story. And by the way, you did notice that I -- you didn't -- you know, I -- I also -- it doesn't matter. Let's go on. You're -- you're -- you're doing this.

(The clip was played.)

BY MR. QUAINTON:

Q. On the top of page 36, lines 1 through 4, when -- when you say that you'll push him hard, push Mr. Butowsky hard, asks if anybody -- if he knows somebody that Julian said it to, do you recall what you were referring to in that sentence when you said --

MS. GOVERNSKI: Objection.

Q. -- could you tell me that you know somebody that Julian said it to?

A. "I'm going to push you hard." Oh, yeah, the -- the -- I -- I think I was referring, he said that there was some woman

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2 who claimed that Putin -- somebody --

3 secondhand stuff, you know. I said that I'm

4 not going to expose any -- I -- I -- I was

5 telling him I'm not writing anything about

6 this, but I guess that's what he says. I mean,

7 I don't know.

8 MR. QUAINTON: All right. Let's go

9 on.

10 (The clip was played.)

11 BY MR. QUAINTON:

12 Q. So this is the last series of

13 questions I have on the audio. Page 39, lines

14 6 to 8, "I can tell you right now that Maddis

15 knows what I know." Can you -- can you explain

16 what you meant by those lines?

17 A. I can, but I can't, so there we are.

18 It has nothing to do with the Rich case. It

19 has to do with Russia.

20 Q. So, I'm sorry, are you -- I don't --

21 I didn't hear an objection.

22 So my question is, what did you mean

23 by "I can tell you right now Maddis knows what

24 I know"?

25 MR. BOWMAN: Witness is asserting

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2 Russia stuff and not about Seth Rich. That's

3 all peripheral. But there's other things I

4 know that get -- that could get guys killed in

5 the field, and I don't write that, which is one

6 reason people don't talk to me on the inside.

7 They know that.

8 Q. Let's go down to line --

9 A. My god. Which one?

10 Q. Line 13. Page 39, line 13. And you

11 say, "It doesn't make it true," and I -- I'd

12 just like to just unpack that a little bit, if

13 we could, without getting too metaphysical.

14 I'd just like to establish what we can say with

15 some certainty is true, if you'll just bear

16 with me. And just if -- if you agree with me,

17 let me know.

18 Is it true that you had a

19 conversation with Edward Butowsky sometime in

20 the course of 2017 when you discussed Seth

21 Rich? Is that a true statement?

22 A. Absolutely. Yes.

23 Q. And in the course of that

24 conversation, is it a true statement that you

25 relayed to Mr. Butowsky certain information

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2 the privilege.

3 A. Yeah, come on, come on, you know? I

4 told you that I get information, and I can

5 check it with other people. And I've always

6 had somebody high up in the government. And

7 I'm not saying it's Maddis, but I always had

8 somebody, even in the Bush/Cheney White

9 House -- you probably don't know all the stuff

10 I wrote about Bush secret operations in Iran

11 and crap like that. By the way, that are going

12 on again by Americans and blowing up stuff

13 there, which is quite outrageous. But anyway,

14 I've always had other people. So I'm not

15 suggesting necessarily in this case Maddis knew

16 anything, but he knows generally. When he was

17 inside, he knew what I was doing. That's --

18 that's -- that's the way it works in the

19 Washington business, that's all. I -- it's not

20 about any -- him telling me anything. That, I

21 never do. It's me saying what I'm doing and

22 making sure I'm not screwing up and getting

23 some Americans killed. That's what the whole

24 point is. That's why I don't write a lot of

25 things I should know. It's not about the

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2 that you had heard about Seth Rich?

3 MS. GOVERNSKI: Objection.

4 Q. Is that a true statement?

5 A. Yes. I did relay to him certain

6 things I'd heard about it, and -- and with the

7 caveat that, you know, it could be true or

8 could not be true, as I said later.

9 Q. But wait. But is there --

10 A. But I certainly did relay

11 information.

12 Q. Okay. Now, let's try to be --

13 without -- let's just get into the -- just very

14 narrowly, it's true that you had a conversation

15 with Ed Butowsky during which you relayed

16 certain information about Seth Rich that you

17 had heard from another source. Is that a true

18 statement?

19 A. Yes.

20 MS. GOVERNSKI: Objection.

21 Q. And is it a -- and it's a true

22 statement, is it not, that you actually had

23 your real conversation with a real human

24 being -- might be male, might be female -- who

25 transmitted information to you about Seth Rich,

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2 the tenor of which you then transmitted to

3 Mr. Butowsky?

4 MS. GOVERNSKI: Objection.

5 A. That's -- that's what I said.

6 That's -- that's -- that's in the transcript.

7 That's --

8 Q. That's -- what I just said, that

9 is -- that is true; correct?

10 A. It's -- it's on a tape, sir.

11 Q. And just so -- just so the record is

12 clear, that what I just said to you, my -- that

13 was a true statement.

14 A. It's on the tape, sir.

15 Q. Okay. We're -- we're looking at

16 the -- we're looking at the language here,

17 "doesn't make it true." And this language has

18 given rise to lots of controversy and is, in

19 fact, one of the reasons why there's a -- a

20 lawsuit here. And --

21 MS. GOVERNSKI: Objection.

22 Q. And this is -- and so I'm trying to

23 really understand and really drill down into

24 what it means when you're saying "it doesn't

25 make it true," okay? So I am just -- and I --

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2 A. Yes, it's absolutely a true

3 statement. I was told -- told something about

4 Seth Rich by this high-level source.

5 Q. So -- so you had a conversation with

6 a real human being who was a real high-placed

7 source who represented that he or she had

8 received information pertaining to Seth Rich --

9 Seth Rich's transferring of emails to

10 WikiLeaks, which you then communicated to

11 Mr. Butowsky. All of that is true; correct?

12 MR. BOWMAN: Objection, asked and

13 answered. You can answer.

14 A. Well, as I said, it doesn't make it

15 true. It's true that I had a conversation. It

16 doesn't --

17 Q. Well, all I'm --

18 A. -- make the statement true, and --

19 Q. Well, that's --

20 A. -- that's what I --

21 Q. -- what I'm trying to --

22 A. What I --

23 Q. I'm not trying to catch you, I'm

24 going to give you a chance to --

25 MR. BOWMAN: Let the witness answer

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2 I -- I appreciate your frustration. I'm just

3 trying to be very precise.

4 So is it a true statement that you

5 spoke with a high-level source sometime before

6 your conversation with Mr. Rich, who -- to

7 whom --

8 A. Wait, somebody just -- wife just

9 opened the door and said, "What are you doing?"

10 And so start that question again. Can you do

11 it a little quicker?

12 Q. I -- I'll try. And when I think,

13 I -- I -- I speak slowly when I'm thinking, so

14 I apologize.

15 Is it a true statement that you spoke

16 to a high-level individual sometime before you

17 spoke to Mr. Butowsky, who told you that he or

18 she had been given information about Seth Rich

19 transmitting emails to WikiLeaks? Is that a

20 true statement?

21 MS. GOVERNSKI: Objection.

22 A. It's -- it's in the transcript.

23 Q. But if you could just answer my

24 question. Is what I said, is that a true

25 statement?

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2 the question. Counsel, let the witness

3 answer the question.

4 A. Why are you arguing with me about it?

5 I -- I said it's in the transcript. I said

6 because it's said doesn't make it true. That's

7 the way I do my journalism. And so I -- you

8 know, I -- I -- I don't quite understand what

9 you're getting at. I mean, I had a

10 conversation. There's -- it's on the tape. It

11 speaks for itself, period.

12 Q. So what I'm trying to do again, just

13 to be clear, I'm trying to separate out --

14 A. Repeat the question.

15 Q. -- what is true and what isn't true,

16 okay? So I think we established what is true.

17 The only -- the -- so if -- if I say what --

18 what is not true, what -- what -- let me

19 backtrack. When you say it doesn't make it

20 true --

21 A. It's -- it's what I said to

22 Mr. Butowsky which is really important to me.

23 Q. Yes. Well, let me finish my -- my

24 question, if I could.

25 A. Okay.

<p style="text-align: right;">Page 182</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 Q. You -- you are not telling him that</p> <p>3 the information that you have received from a</p> <p>4 high-level source about Seth Rich's transfer of</p> <p>5 emails to WikiLeaks is false. You are not</p> <p>6 telling him that; correct?</p> <p>7 A. Seen? Seen?</p> <p>8 MS. GOVERNSKI: Objection.</p> <p>9 A. What does that mean? I saw nothing.</p> <p>10 I've seen nothing in that case. It was just</p> <p>11 something said to me discursively that I</p> <p>12 mentioned, I happened to repeat to Larry when</p> <p>13 we were playing golf one day, that he told me</p> <p>14 I -- he was involved with Butowsky; otherwise,</p> <p>15 it never would have been -- it's just something</p> <p>16 that was said that I went on with life.</p> <p>17 MR. QUANTON: Actually, could the</p> <p>18 court reporter read back the question?</p> <p>19 THE WITNESS: You said "seen."</p> <p>20 MR. QUANTON: Could you read back</p> <p>21 my question, please?</p> <p>22 (The reporter read from the record as</p> <p>23 follows: "You are not telling him that</p> <p>24 the information that you have received</p> <p>25 from a high-level source about Seth Rich's</p>	<p style="text-align: right;">Page 183</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 transfer of emails to WikiLeaks is false.</p> <p>3 You are not telling him that; correct?")</p> <p>4 THE WITNESS: So is that -- that</p> <p>5 the question? I thought it was a</p> <p>6 different question.</p> <p>7 BY MR. QUANTON:</p> <p>8 Q. That was the same one. The verb that</p> <p>9 I was using was "received," not "seen." So</p> <p>10 you -- you just -- you answered the question as</p> <p>11 though I had asked you whether you had -- you</p> <p>12 had seen that, which was not the question I</p> <p>13 asked.</p> <p>14 A. I see. My apologies.</p> <p>15 Q. The question I asked was whether</p> <p>16 the -- whether you are saying to Mr. -- to</p> <p>17 Mr. Butowsky, that the information you had</p> <p>18 received was false. Were you saying that to</p> <p>19 him?</p> <p>20 MS. GOVERNSKI: Objection.</p> <p>21 A. Yeah, I -- I don't -- say that again,</p> <p>22 please. You're -- you're -- you're -- you're</p> <p>23 trying to push me into something that I don't</p> <p>24 quite understand. So what are you saying? I</p> <p>25 mean, it's -- there's a -- there's a -- there's</p>
<p style="text-align: right;">Page 184</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 a transcript here, counselor.</p> <p>3 Q. I'm not trying to push you into</p> <p>4 anything. I'm trying to make --</p> <p>5 A. So try it --</p> <p>6 Q. -- sure that I understand --</p> <p>7 A. -- again.</p> <p>8 Q. -- exactly --</p> <p>9 A. Repeat it.</p> <p>10 Q. Okay. So my -- did you understand my</p> <p>11 question?</p> <p>12 A. Yes, but I -- you're making an</p> <p>13 assumption that because I hear it and because</p> <p>14 he tells me, I automatically think that's</p> <p>15 absolutely right when I've told you two or</p> <p>16 three times I always go, when I'm anywhere</p> <p>17 halfway seriously, even with the best of</p> <p>18 sources, I always go to somebody totally else.</p> <p>19 In one case, it's across the country. I always</p> <p>20 go to verify that kind of information. So this</p> <p>21 was information that I -- I -- he's an</p> <p>22 honorable guy. I took it seriously. But that</p> <p>23 doesn't mean I was anywhere -- you know, it --</p> <p>24 it -- it wasn't written in -- it -- it's not --</p> <p>25 it's not the Bible, it's just what somebody</p>	<p style="text-align: right;">Page 185</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 said to me about a report that he had not seen</p> <p>3 and he did not get from somebody in the FBI.</p> <p>4 And as has been -- been repeated a million</p> <p>5 times by people who write about this in the</p> <p>6 beginning, there was -- I never mentioned I</p> <p>7 ever talked to anybody in the FBI. There was</p> <p>8 no firsthand information. And so you're just</p> <p>9 asking me to -- to say what's on the record. I</p> <p>10 mean, but I'll be glad to say -- ask -- ask the</p> <p>11 question again. I'll be glad to say yes, it's</p> <p>12 in the -- it's in the transcript.</p> <p>13 Q. I'm just trying to be -- I'm just</p> <p>14 trying to be clear. And I think we're</p> <p>15 almost -- we're almost there. The information</p> <p>16 that you received -- R-E-C-E-I-V-E-D -- that</p> <p>17 you received from the trusted source that you</p> <p>18 relayed to Mr. Butowsky, you were -- you were</p> <p>19 not saying that information -- that you knew</p> <p>20 that information to be false. Isn't that --</p> <p>21 A. Well --</p> <p>22 Q. -- a true statement?</p> <p>23 A. I see what the trouble was.</p> <p>24 MS. GOVERNSKI: Objection.</p> <p>25 A. All right, let me just give you the</p>

<p style="text-align: right;">Page 186</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 trouble with your sentence, that I received.</p> <p>3 Let's put it this way. The information that I</p> <p>4 was offered or that was relayed to me from a</p> <p>5 trusted source, I didn't ask about it. It was</p> <p>6 just something we were -- he just started</p> <p>7 chatting about it, that's all. And he happened</p> <p>8 to mention that, that's -- period. We were</p> <p>9 chatting. I wasn't reporting on it. It was</p> <p>10 all peripheral, period.</p> <p>11 And as I said, I didn't take notes</p> <p>12 because I wasn't interested in it. I do take</p> <p>13 notes most of the time. Sometimes. Certainly</p> <p>14 recreate them later. But on this, there were</p> <p>15 no notes, I mean, and so it was just something</p> <p>16 somebody told me in the course of a three- or</p> <p>17 four-hour conversation. We talked about a lot.</p> <p>18 But it wasn't -- it wasn't given to me, it was</p> <p>19 just -- it -- it -- do you understand what</p> <p>20 I'm -- what I'm objecting to? I'm objecting to</p> <p>21 making it look like it was something I wanted</p> <p>22 or asked for. It was just given to me. It was</p> <p>23 an opinion, a good one, you know, that he</p> <p>24 understood this from somebody who had seen a</p> <p>25 file. I called it a report, but it's -- you</p>	<p style="text-align: right;">Page 187</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 know, it's -- whatever it was, it was a -- it</p> <p>3 may have been a nonverbal file, because they do</p> <p>4 exist in the world that he lives in and I know</p> <p>5 a lot about.</p> <p>6 So I don't even know what the</p> <p>7 "report" means as I used it. It could be</p> <p>8 nothing more than a verbal report, as I've said</p> <p>9 to you. But, you know, I wasn't -- I wasn't</p> <p>10 playing cops and robbers. I was talking to a</p> <p>11 friend of a friend. And I didn't think I was</p> <p>12 in a hostile situation as apparently I ended up</p> <p>13 being in.</p> <p>14 Q. Well, I don't think you were in</p> <p>15 necessarily a hostile situation, but I -- I do</p> <p>16 under -- I do understand your objection about</p> <p>17 the word --</p> <p>18 A. Called a liar and a bum and all those</p> <p>19 terrible things. He wrote some terrible emails</p> <p>20 to me.</p> <p>21 Q. We'll get to those in a second. But</p> <p>22 I do understand your objection to the word</p> <p>23 "received." And I was not trying to put words</p> <p>24 in your mouth. If you prefer the information</p> <p>25 that was relayed to you, conveyed to you --</p>
<p style="text-align: right;">Page 188</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 A. It wasn't --</p> <p>3 Q. -- any of those verbs --</p> <p>4 A. The whole point is I didn't seek it.</p> <p>5 He just told it to me.</p> <p>6 Q. But your seeking it is not implied in</p> <p>7 information being relayed to you. What I'm</p> <p>8 really trying to get at is -- is -- I think</p> <p>9 you're -- you're missing the -- the tenor of</p> <p>10 what my question is. All I'm trying to get you</p> <p>11 to -- to answer, if you would, is whether this</p> <p>12 information about Seth Rich transferring emails</p> <p>13 to WikiLeaks, that was communicated to you and</p> <p>14 that you communicated to Ed Butowsky. You --</p> <p>15 MR. BOWMAN: Objection.</p> <p>16 Q. You did not --</p> <p>17 MS. GOVERNSKI: Objection.</p> <p>18 Q. -- did not believe that that</p> <p>19 information was false. Isn't that a true</p> <p>20 statement?</p> <p>21 A. I --</p> <p>22 MR. BOWMAN: Objection.</p> <p>23 MS. GOVERNSKI: Objection.</p> <p>24 MR. BOWMAN: Asked and answered.</p> <p>25 And also, he's answered it several</p>	<p style="text-align: right;">Page 189</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 times. The transcript speaks for</p> <p>3 itself. You're asking him to</p> <p>4 characterize a conversation of which</p> <p>5 there's a transcript.</p> <p>6 A. So you're not really asking a fair</p> <p>7 question. I -- I don't think I made a value</p> <p>8 judgment about it in -- in any way, it's just</p> <p>9 some -- some -- something on the -- just</p> <p>10 something I -- you know, you're suggesting</p> <p>11 there was -- for whatever it is, I -- I can't</p> <p>12 do better than I have, counselor.</p> <p>13 Q. Okay. So when you say "It doesn't</p> <p>14 make it true," is -- is what you mean by that</p> <p>15 that the information that was communicated to</p> <p>16 you of Seth Rich transferring emails to</p> <p>17 WikiLeaks that you communicated to Ed Butowsky,</p> <p>18 that you had not been able to verify that from</p> <p>19 a journalistic point of view to your</p> <p>20 professional standards? Is that a true</p> <p>21 statement?</p> <p>22 A. What's true is --</p> <p>23 MR. BOWMAN: Objection.</p> <p>24 A. Let me just say this. The</p> <p>25 conversation I had with Ed Butowsky, I was</p>

<p style="text-align: right;">Page 190</p> <p>HERSH - CONFIDENTIAL</p> <p>1 relaying something that had -- I had told to</p> <p>2 another person, who relayed it to Butowsky.</p> <p>3 Once Butowsky mentioned that he was going to</p> <p>4 go -- thinking of going to the White House with</p> <p>5 this stuff, I tried to say to him, are you --</p> <p>6 my message to him, hey, nothing here is true.</p> <p>7 I haven't done any work on this. You're going</p> <p>8 to talk to the White House? And if you</p> <p>9 remember, I said don't put my name on this</p> <p>10 stuff, because I have no idea whether it's good</p> <p>11 or not. And in fact, I have my -- I -- I -- no</p> <p>12 interest in it. When he says, I'm going to go</p> <p>13 to the White House on this, are you kidding me?</p> <p>14 The moment he said I -- this was something he</p> <p>15 was going to take to the White House, he said,</p> <p>16 as you know, I go on air to talk about things.</p> <p>17 I didn't know that. I just thought he was a</p> <p>18 friend of a friend. I didn't know that. So</p> <p>19 there's no way I would have gone -- you know,</p> <p>20 I -- I don't -- I just did a favor for somebody</p> <p>21 and there's --</p> <p>22 Q. Mr. --</p> <p>23 A. -- a lot -- yeah, I shouldn't do</p> <p>24 favors. He said, I'm going to go -- you know,</p> <p>25</p>	<p style="text-align: right;">Page 191</p> <p>HERSH - CONFIDENTIAL</p> <p>1 he said I'm going to go -- I -- I'm not trying</p> <p>2 to give you something to go to the White House</p> <p>3 with, I said, on line 2. 1, 2, 3. Are you</p> <p>4 kidding? You're going to take this to the</p> <p>5 White House? Are you kidding? This</p> <p>6 fourth-rate stuff? You know --</p> <p>7 Q. Mr. --</p> <p>8 A. -- I know if you go to the White</p> <p>9 House with something, I'll tell you, you got to</p> <p>10 have a pretty good -- and this was nothing more</p> <p>11 than, you know, some guy's conversation about</p> <p>12 something he heard that may or may not have --</p> <p>13 there wasn't an FBI agent involved. As far as</p> <p>14 I know, there was no paper involved. I don't</p> <p>15 know what he meant by "report." I'm -- I'm --</p> <p>16 probably, I wasn't clear enough. Well then let</p> <p>17 me be very clear to you. I didn't assume that</p> <p>18 there was some big secret document he had. I</p> <p>19 just assumed he had a report. They live with</p> <p>20 reports, the people in his business. I just --</p> <p>21 Q. I under -- Mr. Hersh, I'm -- I</p> <p>22 understand, and --</p> <p>23 A. Well, I'm not sure you --</p> <p>24 Q. -- I'm trying --</p> <p>25</p>
<p style="text-align: right;">Page 192</p> <p>HERSH - CONFIDENTIAL</p> <p>1 A. -- you do understand.</p> <p>2 Q. -- to --</p> <p>3 A. -- to say that I thought there was</p> <p>4 some gravamen to this.</p> <p>5 Q. Well, that's what I'm trying to</p> <p>6 establish right now, Mr. -- Mr. Hersh.</p> <p>7 A. I didn't think there was gravamen to</p> <p>8 it.</p> <p>9 Q. When you say "it," what are you</p> <p>10 speaking about?</p> <p>11 A. The whole notion that somebody heard</p> <p>12 something or told him something about what this</p> <p>13 guy did, and going -- and -- and as I said, you</p> <p>14 notice I also -- you didn't mention it, but I</p> <p>15 also said everything I learned about what</p> <p>16 happened there to Seth Rich had nothing to do</p> <p>17 as those crazy people that you played, CN LIVE</p> <p>18 talked about with somebody killing him.</p> <p>19 It's -- you know, my brother-in-law happened to</p> <p>20 mention it. We were talking about it one day,</p> <p>21 and he mentioned there's been 10 cases.</p> <p>22 That's -- that's how I knew about it.</p> <p>23 And I know about warrants. And I --</p> <p>24 I could be wrong about it, because things</p> <p>25</p>	<p style="text-align: right;">Page 193</p> <p>HERSH - CONFIDENTIAL</p> <p>1 change, but I was a police reporter and a kid</p> <p>2 reporter for a long time, you know, in Chicago,</p> <p>3 man. I -- if I wasn't chasing 10 murders a</p> <p>4 month, I was chasing -- you know, I was always</p> <p>5 looking for warrants. But it could be I --</p> <p>6 what I know about warrants, it could be all</p> <p>7 wrong. The District of Columbia is probably a</p> <p>8 different system. But I know generally cops,</p> <p>9 they can't go into a computer unless -- if</p> <p>10 there's a roommate, because that's always a</p> <p>11 possibility. They have to get a warrant.</p> <p>12 That's my understanding. But I don't even -- I</p> <p>13 don't even know if that's so. I never did --</p> <p>14 Q. Sir, I'm --</p> <p>15 A. -- find out.</p> <p>16 Q. Yeah, I'm not asking you about the</p> <p>17 warrant.</p> <p>18 A. Yeah, but I'm telling --</p> <p>19 Q. I'm asking --</p> <p>20 A. -- you what -- what -- what the</p> <p>21 reality is here.</p> <p>22 Q. Well, Mr. -- Mr. Hersh, if I could</p> <p>23 ask the questions, please. Again, and -- and</p> <p>24 I'm going after this -- this -- this line, and</p> <p>25</p>

<p style="text-align: right;">Page 194</p> <p>HERSH - CONFIDENTIAL</p> <p>I want to establish what is -- what is true and what is not true. That is -- that is important to me. This is a defamation case, so that's an important issue. I'm not going to give you a speech about that. So let's go very simple.</p> <p>It's true that you had a trusted source whom you had known for 31 years who communicated information to you about the FBI examining Seth Rich's computer, finding emails from Seth Rich to WikiLeaks, and requesting payment in exchange. That is a true statement, is it not?</p> <p>A. It's -- it's --</p> <p>MS. GOVERNSKI: Objection on multiple grounds.</p> <p>A. It's in the transcript, counselor.</p> <p>Q. Well, I would like to know -- I want to know what's true or not, because I --</p> <p>MR. QUANTON: Could you read back the question, please?</p> <p>THE REPORTER: I will read back the question, but I would like to have a break within five minutes.</p> <p>MR. QUANTON: That's no problem.</p>	<p style="text-align: right;">Page 195</p> <p>HERSH - CONFIDENTIAL</p> <p>(The reporter read from the record as follows: "It's true that you had a trusted source whom you had known for 31 years who communicated information to you about the FBI examining Seth Rich's computer, finding emails from Seth Rich to WikiLeaks, and requesting payment in exchange. That is a true statement, is it not?")</p> <p>A. It's -- I've testified to that. I've testified that's what he said. I've also characterized what he said as anything but a serious conversation. It was chitchat about something else. As I said, I didn't take notes on it. And I did relay it to Ed, and I did tell him, in essence, what I said. And -- and as I said, you know, it doesn't make it true. I said that to him twice what -- what --</p> <p>Q. What part of that?</p> <p>A. That didn't make it true. And I -- I -- I -- if -- if I'd known, and if you read -- I will also say, counselor, long before this case was brought, I have said three -- two or three times to him in emails I didn't keep,</p>
<p style="text-align: right;">Page 196</p> <p>HERSH - CONFIDENTIAL</p> <p>you know, are you kidding me? That I've no factual information, and -- and I was just relayed -- he's been told that by me in emails, and I've said it publicly to -- to other people, that at no time did I -- I -- did I ever have any reason to believe that whatever happened really transpired. I just didn't know. I pick up a lot of information, period. And it doesn't make it true. And the idea that's in the transcript, that if he thought of taking something like that to the White House or anybody else, he would be making a huge mistake because I have no basis for knowing it's so, period.</p> <p>Q. Okay. I -- I'm going to move to strike.</p> <p>MR. BOWMAN: I would like to take a break.</p> <p>MR. QUANTON: Okay. I'm just going to move to strike the entirety of that answer as nonresponsive, and we'll pick it up after the break.</p> <p>THE VIDEOGRAPHER: The time is 3:25 p.m. We're off the record.</p>	<p style="text-align: right;">Page 197</p> <p>HERSH - CONFIDENTIAL</p> <p>(Recess taken.)</p> <p>THE VIDEOGRAPHER: The time is 3:47 p.m. We are on the record.</p> <p>BY MR. QUANTON:</p> <p>Q. Mr. Hersh, when we had left off, I had stricken your response to my prior question. And I'm going to ask the question again, but before I do, just -- just so you can understand where I'm trying to go, because I -- I think that there may be a miscommunication. You may think I'm trying to go somewhere that I'm not trying to go. So I view this as similar to a -- a -- situation where John says to Sy, "It was a sunny day." And what I want to establish is that it is a true statement that John told Sy it was a sunny day, leaving aside the veracity of whether or not it was, in fact, a sunny day. That's -- that's -- that's where I'm going with this. That's the distinction that I'm going to be trying to draw. And I think if you listen to my question, that's -- what I'm asking you is whether it's a true -- whether -- whether -- whether the -- whether you answer yes or no,</p>

<p style="text-align: right;">Page 198</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 that the question that I put to you was a true</p> <p>3 statement. So I'm going to ask the reporter to</p> <p>4 read the question again. And if you could,</p> <p>5 I -- I -- I -- I don't need a long answer.</p> <p>6 It's really just yes, that's a true statement,</p> <p>7 or whatever your testimony is. But I don't</p> <p>8 need a gloss on it. Do you see what I'm -- do</p> <p>9 you see what I'm trying to -- to accomplish</p> <p>10 here, Mr. Hersh?</p> <p>11 THE WITNESS: Let's hear the</p> <p>12 question.</p> <p>13 MR. QUANTON: Okay.</p> <p>14 MR. BOWMAN: And please state his</p> <p>15 answer.</p> <p>16 MR. QUANTON: Would you read back</p> <p>17 the question that we had before?</p> <p>18 (The reporter read from the record as</p> <p>19 follows: "It's true that you had a</p> <p>20 trusted source whom you had known for 31</p> <p>21 years who communicated information to you</p> <p>22 about the FBI examining Seth Rich's</p> <p>23 computer, finding emails from Seth Rich to</p> <p>24 WikiLeaks, and requesting payment in</p> <p>25 exchange. That is a true statement, is it</p>	<p style="text-align: right;">Page 199</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 not?")</p> <p>3 MS. GOVERNSKI: Objection to that</p> <p>4 question as well as to the -- Mr.</p> <p>5 Quainton's intro into it.</p> <p>6 A. My -- my answer is it's absolutely</p> <p>7 true. I had a source who communicated</p> <p>8 secondhand information to me about the issues</p> <p>9 you raise.</p> <p>10 BY MR. QUANTON:</p> <p>11 Q. Going to move to strike everything</p> <p>12 after the words "It's absolutely true."</p> <p>13 So when you say "doesn't mean it's</p> <p>14 true," does -- is what you mean by that that</p> <p>15 you could not verify the -- the content of what</p> <p>16 was communicated to you by your trusted source?</p> <p>17 A. No, it does not mean that to me.</p> <p>18 MS. GOVERNSKI: Objection.</p> <p>19 Q. Well, what -- what does it mean to</p> <p>20 you, then?</p> <p>21 A. I made no attempt to verify. I</p> <p>22 didn't consider it something worth verifying.</p> <p>23 Q. So what doesn't make it true, though,</p> <p>24 is the fact that it has not been verified.</p> <p>25 MS. GOVERNSKI: Objection.</p>
<p style="text-align: right;">Page 200</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 A. In my business, that's pretty much</p> <p>3 something that is --</p> <p>4 THE REPORTER: I'm sorry, sir,</p> <p>5 "something that is"?</p> <p>6 THE WITNESS: In my -- I said in my</p> <p>7 business, that's -- the fact that it --</p> <p>8 it was secondhand and I couldn't verify</p> <p>9 it doesn't -- doesn't make it true in</p> <p>10 any way.</p> <p>11 THE REPORTER: Thank you.</p> <p>12 Q. All right. Okay. So let's -- and it</p> <p>13 doesn't make it false. Isn't that also true?</p> <p>14 A. Yeah, it's a no-man's land,</p> <p>15 absolutely.</p> <p>16 MR. QUANTON: All right. So let's</p> <p>17 look at DH -- marked -- marked as DH12,</p> <p>18 and --</p> <p>19 (Exhibit No. DH12 was marked for</p> <p>20 identification.)</p> <p>21 THE WITNESS: You'll show those to</p> <p>22 me, will you? Because you say they're</p> <p>23 short.</p> <p>24 MR. QUANTON: What I'm going to</p> <p>25 try to do is just pull these up on the</p>	<p style="text-align: right;">Page 201</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 screen and scroll through them so you</p> <p>3 don't have to do anything on your end.</p> <p>4 THE WITNESS: If they're short, you</p> <p>5 can read it if it makes it quicker.</p> <p>6 MR. QUANTON: I think I'd prefer</p> <p>7 to try to pull it up, so --</p> <p>8 THE WITNESS: Okay. I -- I -- I'm</p> <p>9 not as enthralled by your skills as</p> <p>10 maybe you are.</p> <p>11 MR. QUANTON: Believe me, I'm not</p> <p>12 enthralled by my skills at all. In</p> <p>13 fact, my computer's not helping me here.</p> <p>14 All right, go off the record for a</p> <p>15 second.</p> <p>16 THE VIDEOGRAPHER: The time is</p> <p>17 3:53. We're off the record.</p> <p>18 (Discussion held off the record.)</p> <p>19 THE VIDEOGRAPHER: 4:04 p.m. We</p> <p>20 are on the record.</p> <p>21 BY MR. QUANTON:</p> <p>22 Q. Okay, Mr. Hersh, I am putting up on</p> <p>23 the screen a document premarked as DH12, and I</p> <p>24 would just like you to take a quick look at</p> <p>25 that document --</p>

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2 A. It's not --

3 Q. -- and --

4 A. -- on my screen.

5 MR. BOWMAN: And for the record,

6 it's -- it's not visible to the witness.

7 BY MR. QUANTON:

8 Q. This is DH12. Do you see that?

9 And --

10 A. I've read it already. I -- I printed

11 it --

12 Q. Okay.

13 A. -- up from here.

14 Q. You read it already. Okay. So do

15 you recognize this document, Mr. Herish?

16 A. You know, it's an email. I mean,

17 sure. I don't remember it, but I recognize it,

18 of course.

19 Q. And what -- what is it?

20 A. It's an email from -- let's see.

21 Hold on. From Mr. Butowsky to me, April 20, at

22 8 o'clock in the morning.

23 Q. And as you -- as you read this, this

24 would have been after your phone call with

25 Mr. Butowsky; is that right?

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2 Q. -- the --

3 A. No, it -- I -- I've lost the -- the

4 thing. It went down. I -- I -- I see I said I

5 can't have lunch, so maybe it was afterwards.

6 I don't know. I have no idea, just no idea

7 whatsoever.

8 MR. QUANTON: Okay. So I'm

9 showing you now DH --

10 THE WITNESS: Okay.

11 MR. QUANTON: What's been marked

12 DH13.

13 THE WITNESS: All right, let me

14 scroll down.

15 (Exhibit No. DH13 was marked for

16 identification.)

17 BY MR. QUANTON:

18 Q. And I'm going to ask you to take a

19 look at that.

20 A. Butowsky. Yeah, I see it. I read

21 it.

22 Q. Okay. And do you -- you recognize

23 that document?

24 A. No, I don't remember it, but I -- I

25 mean, I -- I -- I get so many -- I -- emails a

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2 A. I have no idea.

3 Q. Did you have any communications with

4 Mr. Butowsky before the phone call?

5 A. I don't remember. I might have. I

6 just don't remember. I -- I -- I remember

7 looking up things on him before I talked to

8 him, so I probably had some communication.

9 Either that or through Larry. Larry -- Larry

10 was relaying some stuff to me. I think I

11 remember something like that. I get a lot of

12 emails.

13 Q. This says, "I'm in Washington today.

14 Are you open for lunch?"

15 A. Yeah, I -- I -- I --

16 Q. Is --

17 A. Okay.

18 Q. Is that the kind of email that you'd

19 get from somebody that you hadn't met before or

20 talked to before?

21 A. Yeah. Perfectly okay.

22 Q. All right. So this does not refresh

23 your recollection as to what -- as to whether

24 that April 20 was after --

25 A. Well, I -- I see it. It --

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2 day, I -- so I don't keep them, no. But go

3 ahead, I -- I'm --

4 Q. No, no. So you -- so that's just a

5 question. Do -- do you --

6 A. Right.

7 Q. -- recognize it or -- or not?

8 A. With the right email, it sounds like

9 it's fine. I'm -- I -- I'm not -- go ahead.

10 What's your question, counselor?

11 Q. That was my question.

12 MS. GOVERNSKI: I would just object

13 to the document to the extent that

14 there's -- based on the rule of

15 completeness.

16 Q. My question was simply -- my first

17 question was whether you recognize the

18 document. Sounds like you do not recognize

19 this document, and --

20 A. I don't remember being asked anything

21 like that.

22 MR. QUANTON: I'm going to show

23 you what's been marked DH14.

24 (Exhibit No. DH14 was marked for

25 identification.)

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2 THE WITNESS: Let me go to it.

3 BY MR. QUANTON:

4 Q. And let's take a look at this, this

5 document, if you would.

6 A. Okay. It says "Good morning."

7 Q. Just look -- look at the whole thing.

8 A. Well, unfortunately, it's -- it's --

9 I -- on the right-hand of my screen I've got

10 pictures of everybody here so it's cut off a

11 little bit, but let -- you can read me the

12 words. I'm --

13 MR. BOWMAN: Counsel, would it be

14 possible to scroll up from the bottom so

15 he can read in a logical way?

16 MR. QUANTON: Sure.

17 THE WITNESS: Yeah, let me --

18 BY MR. QUANTON:

19 Q. Can you see that?

20 A. Well, it just -- the last words are

21 cut off on what I have. I mean, the right part

22 of my screen has -- has got -- I'm looking at

23 all the pretty faces.

24 Q. But you -- you can move that around,

25 the -- the -- the thing with all the pretty

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2 THE VIDEOGRAPHER: Time is

3 4:10 p.m. We are off the record.

4 (Discussion held off the record.)

5 THE VIDEOGRAPHER: Time is

6 4:10 p.m. We're back on the record.

7 THE WITNESS: So I'm looking at it,

8 yes.

9 BY MR. QUANTON:

10 Q. Now I'm going to scroll -- I'm going

11 to scroll down slowly so you can see the full

12 document.

13 A. Well, yeah. I got it. I see the

14 rest of it. Go ahead.

15 Q. Okay. Now, do you recognize this

16 document?

17 A. I -- I -- I -- I -- no, I don't think

18 I've seen it since it came, which would have

19 been three years ago. It's what now, three --

20 three years and three or -- three months, so I

21 don't remember it. But, I mean, I don't -- I

22 don't dispute that I got it. I don't remember

23 this exchange. Reporters hear things, they

24 believe things, they check it out, they say any

25 proof, they move on. I did that right at

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2 faces.

3 A. Well --

4 Q. You just click on that and hold it

5 and move it somewhere else on the screen, like

6 down below --

7 A. I -- I mean, and that's --

8 Q. -- put it away.

9 A. You mean like down or something like

10 that? But anyway, just what -- what -- so go

11 ahead. Well -- well, read it to me then, or --

12 you know, I -- I don't quite --

13 Q. Well, I don't want to read it to you.

14 So if you can't -- you --

15 A. I -- I can't see it all, counselor.

16 I can't read the last few words of each one.

17 MR. QUANTON: Let's -- let's go

18 off the record. And, videographer, if

19 you could maybe explain to Mr. Hersh how

20 he can move the --

21 THE WITNESS: Well, I want to get

22 rid of the little sidebar picture. It

23 says -- where there's -- I'm looking at

24 myself. There's a little box with

25 everybody on the right-hand side.

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2 the -- that's all you need to know. And for

3 your record, I do not -- not have a friend at

4 FBI saying --

5 THE REPORTER: I'm sorry, sir.

6 When you read for the record, read

7 slowly and clearly for me. Thank you.

8 THE WITNESS: I was -- I was

9 muttering. I was muttering to myself.

10 I shouldn't have been. I'll read it by

11 myself quietly. Okay, I've read it.

12 BY MR. QUANTON:

13 Q. Just the first question, not whether

14 you remember specifically, but just do you --

15 do you remember this -- this -- this -- this

16 document or the -- the -- recognize this at

17 all?

18 A. Well, no. No. But I'm -- I'm not

19 disputing it. I mean I -- I -- I recognize --

20 I remember there was some angry ones that I

21 didn't like at all. This one seems perfectly

22 benign.

23 Q. Okay. So let's look at the -- the

24 date of this is -- see the date at the top,

25 May 5, 2017?

<p style="text-align: right;">Page 210</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 A. Yeah, yeah.</p> <p>3 Q. And from the -- the subject line</p> <p>4 here, I think it's -- it's fair to say this</p> <p>5 would have been after your conversation on the</p> <p>6 telephone with Mr. Hersh [sic]; is -- is that</p> <p>7 correct?</p> <p>8 A. I -- I don't know.</p> <p>9 Q. With Mr. Butowsky.</p> <p>10 A. I mean, it makes sense that I talked</p> <p>11 to him already about it because he's mentioning</p> <p>12 about the CB, the FBI cyber unit. But, you</p> <p>13 know, I -- I -- I -- that seems logical to me</p> <p>14 but I just don't remember sequencing. But it</p> <p>15 certainly looks like it's after, yes.</p> <p>16 Q. And you don't -- you don't</p> <p>17 specifically -- you don't recognize -- you</p> <p>18 don't recognize this document at all?</p> <p>19 MR. BOWMAN: Objection, asked and</p> <p>20 answered.</p> <p>21 A. I mean, I --</p> <p>22 Q. All right, let's move on.</p> <p>23 A. I'm telling him -- I -- I remember</p> <p>24 what I'm saying to him, which is, you know,</p> <p>25 whoa, if I believed that, I would have</p>	<p style="text-align: right;">Page 211</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 believe -- written it. I'm saying that, and</p> <p>3 I'm trying to discourage him from going farther</p> <p>4 but I -- you know, I guess. I don't know. But</p> <p>5 I -- it makes sense --</p> <p>6 Q. All right.</p> <p>7 A. -- to me afterwards.</p> <p>8 THE WITNESS: So is there anything</p> <p>9 else you want me to look at?</p> <p>10 MR. QUAINTON: No. Yes, I'll give</p> <p>11 you another document. Now I'm showing</p> <p>12 you what I've marked as DH15.</p> <p>13 (Exhibit No. DH15 was marked for</p> <p>14 identification.)</p> <p>15 THE WITNESS: Okay.</p> <p>16 BY MR. QUAINTON:</p> <p>17 Q. And DH15 I'm just going to skip over,</p> <p>18 because this is a separate document, but it's</p> <p>19 a -- it's a duplicate of what you just saw.</p> <p>20 A. Okay.</p> <p>21 MR. QUAINTON: So I'm going to show</p> <p>22 you what I've marked as DH16.</p> <p>23 (Exhibit No. DH16 was marked for</p> <p>24 identification.)</p> <p>25 BY MR. QUAINTON:</p>
<p style="text-align: right;">Page 212</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 Q. And then I'm going to scroll down</p> <p>3 slowly and ask you to read through it and then</p> <p>4 tell me if you recognize this.</p> <p>5 A. Yeah. Well -- well, hold on. Hold</p> <p>6 on.</p> <p>7 MR. BOWMAN: Could you leave it on</p> <p>8 the screen for a moment, please?</p> <p>9 THE WITNESS: Yeah, just let it --</p> <p>10 it's flying around. Okay, I read it.</p> <p>11 BY MR. QUAINTON:</p> <p>12 Q. Do you recognize this document?</p> <p>13 A. Well, it's -- yeah, it's an email to</p> <p>14 me from Ed Butowsky.</p> <p>15 Q. And is the date of this email --</p> <p>16 A. I beg your pardon?</p> <p>17 Q. Do you see the date of the email at</p> <p>18 the top?</p> <p>19 A. Yeah, June 2.</p> <p>20 Q. Now, the first question I have on</p> <p>21 this is if you look, you scroll down here, I'm</p> <p>22 going to put it with my -- my cursor. "I wish</p> <p>23 you would stop telling others that you think I</p> <p>24 have -- I really wish you would stop telling</p> <p>25 others information that you think I have." And</p>	<p style="text-align: right;">Page 213</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 I'm -- what are you referring to there?</p> <p>3 A. I have no idea. But I can</p> <p>4 certainly -- I can make a guess from what he --</p> <p>5 what he claimed I told him in the email, that I</p> <p>6 had somebody in the FBI, you know. I never</p> <p>7 said anywhere in that -- in that, I don't</p> <p>8 think. I mean, when I read this years ago, I</p> <p>9 remember thinking, whoa, you know, I -- I -- I</p> <p>10 don't read Twitter and stuff like that. My</p> <p>11 children told me about it, and they -- I -- I</p> <p>12 was told that. I -- I had said that there was</p> <p>13 a -- I never said if I had any -- talked to</p> <p>14 anybody in the FBI. That's the one thing I</p> <p>15 remember. Look, I don't remember -- I mean,</p> <p>16 I -- I -- I don't quite know what you want me</p> <p>17 to do, I mean.</p> <p>18 Q. Well, no, no, no. Just to the extent</p> <p>19 that you can remember, that's all I'm asking.</p> <p>20 A. You asked me a question. I answered.</p> <p>21 It all seems to be rational to me. But I, you</p> <p>22 know, I -- I -- I -- I don't quite understand</p> <p>23 why we're asking about it. I mean, it's an</p> <p>24 email to me, and I -- I said stop relaying</p> <p>25 information you didn't have right, and no --</p>

<p style="text-align: right;">Page 214</p> <p>HERSH - CONFIDENTIAL</p> <p>have no reason to believe is accurate.</p> <p>Q. Why didn't -- I'm sorry, I didn't --</p> <p>MS. GOVERNSKI: I object. By the way, I'm sorry, I didn't have a chance to object earlier to the mischaracterization of what the email says.</p> <p>BY MR. QUANTON:</p> <p>Q. Okay, so the -- the first -- I wasn't talking about the second piece of that paragraph, I was talking about the first piece, where you say -- I'm going to read it -- "I really wish you would stop telling others information that you think I have."</p> <p>And my -- my question is whether you have any recollection of Mr. Butowsky telling anybody anything about what you told him.</p> <p>A. You -- you're asking me whether I remembered something somebody might have written or somebody might have -- you're asking me something that he might have said to somebody else about me?</p> <p>Q. No. What you are saying to him is that he has been saying things to other people.</p>	<p style="text-align: right;">Page 215</p> <p>HERSH - CONFIDENTIAL</p> <p>A. Right, yeah.</p> <p>Q. And I'm wondering what that is based on.</p> <p>A. Probably by -- you know, I -- I have been barred for 20 years ever from -- by Mitch Guilder (phonetic) from either reading Twitter or -- or doing tweets. Just -- they said just stay away. I mean, it's so full of nasty stuff. Somebody must have told me. I -- I must -- I must have heard something from somebody that he was making -- saying things about me that I didn't like. But I don't remember. I mean, I -- I -- I'm a little testy here because I'm -- I'm obviously hearing something, but I don't -- I have no recall specifically of anything. I mean, I understand that this happened, and I understand he was mad at me. I certainly know that because I told you at some point, I do remember a very nasty email to me calling me a liar and stuff like that.</p> <p>Q. Well, let's just take the ones that we've got. So, yeah, I -- I understand --</p> <p>A. So I -- I can't help you on this. I</p>
<p style="text-align: right;">Page 216</p> <p>HERSH - CONFIDENTIAL</p> <p>mean, I'm sure it's accurate, but I have no way -- you know, I can't remember. I -- I have -- I have no idea who was talking and who said what. I -- I just don't know.</p> <p>Q. And you -- you have no recollection of whether anybody was, in fact, talking about this; is that right?</p> <p>THE REPORTER: I'm sorry, sir. I did not hear the end of the question.</p> <p>THE WITNESS: Okay.</p> <p>Q. I said you -- you have no recollection of whether anybody was actually talking about this information.</p> <p>MS. GOVERNSKI: Objection.</p> <p>A. Well, I certainly had some reason to think somebody was, because that's what I said there. But I don't remember who said that, you know? There's a lot of things said about a lot of people in the world, but I -- I certainly had somebody say something to me. I don't know who told me or what. I don't know whether it came from one of my children with a tweet. Sometimes they send me stuff. And I don't know where it came from. Just don't know. But I'm</p>	<p style="text-align: right;">Page 217</p> <p>HERSH - CONFIDENTIAL</p> <p>not disputing that this conversation took place. I mean, the email.</p> <p>Q. Okay. Now, the -- at the end of that paragraph we were just looking at, "Stop relaying information that I have no reason to believe is accurate." And I take it you are referring to the information that you had given Mr. Butowsky in your telephone conversation with him; is that right?</p> <p>MR. BOWMAN: Just objection --</p> <p>MS. GOVERNSKI: Objection.</p> <p>MR. BOWMAN: -- to the opening of the statement.</p> <p>A. I -- I can't invent what I remember from that. I just can't. I mean, it certainly looks that way. Common sense would say that, but I don't have any specific memory of this exchange. I didn't even know there was such an exchange. It makes sense to me, I guess, but I didn't remember.</p> <p>Q. Okay. So it makes sense to you that -- that you were saying that you shouldn't -- you shouldn't relay information that you have no reason to believe is accurate.</p>

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1 HERSH - CONFIDENTIAL

2 And my question -- my next question was, do you

3 have --

4 MS. GOVERNSKI: Objection. That

5 misstates the email.

6 Q. Next question was, do you have any

7 reason, recall any reason to believe that the

8 information that you relayed to Mr. Butowsky

9 was not accurate?

10 MR. BOWMAN: Objection.

11 THE WITNESS: My god.

12 MS. GOVERNSKI: Objection.

13 THE WITNESS: Yeah.

14 MR. BOWMAN: The witness has said

15 he doesn't remember this exchange.

16 You're asking questions about the things

17 he's referring to in this exchange. He

18 doesn't have an answer.

19 THE WITNESS: I -- I -- I will say

20 this, just that -- that I do remember

21 that everybody was saying that -- that

22 the word was I had said that I had

23 talked to the FBI, which was not -- I

24 remember vividly reading when this came

25 on the internet and was sent to me. And

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1 HERSH - CONFIDENTIAL

2 A. I think you already showed me this

3 one. We already talked about this one.

4 Q. No, this is a -- this is a later one.

5 A. Okay, it's the same issue about the

6 House Committee. Kept asking about some House

7 Committee that I don't know anything about, but

8 I see this --

9 Q. Okay.

10 A. -- document.

11 Q. Okay.

12 A. I mean, I'm -- I'm -- this is a

13 little testy. I remember that we had

14 already -- we had some exchanges, were testy,

15 and I'm -- I'm -- go ahead.

16 Q. Okay. So this purports to be a -- an

17 email from Mr. Butowsky to you dated June 27,

18 and there are two lines under the "Re," a name,

19 and then the email that -- we just looked at

20 that before. And so I -- do -- do you

21 recognize the email that you received from --

22 that you apparently received from Mr. Butowsky

23 on June 27, 2017?

24 A. I -- I -- I don't remember specific

25 email, but I certainly recognized that this

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1 HERSH - CONFIDENTIAL

2 I read it once, and I read -- the first

3 thought was, whoa, you know, I never

4 said anything about talking to an FBI

5 guy about it. And that's what I --

6 that's the memory I do have. And I

7 assume that's the best -- best I can do

8 for you on this one. I -- I don't

9 quite --

10 MR. QUAINTON: All right, let's

11 move on.

12 THE WITNESS: Please. Okay, go

13 ahead. Should I read down?

14 MR. QUAINTON: Hold on, hold on.

15 So I just pulled up what I marked as

16 DH17.

17 (Exhibit No. DH17 was marked for

18 identification.)

19 THE WITNESS: Yeah.

20 BY MR. QUAINTON:

21 Q. Do you see that?

22 A. I'm -- I'm just scrolling into it

23 right now.

24 Q. Now I'm scrolling down. You tell me

25 when you want me to scroll further down, okay?

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1 HERSH - CONFIDENTIAL

2 looks like an email he sent me. And I -- I --

3 I certainly am looking at my answer. Not read

4 anything about FBI, have no firsthand

5 information, and I -- you know, stop telling

6 others information you think I have. That

7 seems consistent with me.

8 Q. Sorry, Mr. -- Mr. Hersh?

9 A. Yeah.

10 Q. This is a -- this is -- my next

11 question. This is June 27, and my question

12 is --

13 A. June 22.

14 Q. Okay. So if you look at this, this

15 is DH -- DH17.

16 A. Yeah.

17 Q. Okay?

18 A. What are you -- what -- it -- you

19 mean the first line? The first thing? Re: who

20 is the person who read you the file, don't

21 defend me, the --

22 THE REPORTER: I'm sorry, sir, I --

23 I can't understand you. Please slow

24 down a bit.

25 THE WITNESS: All right. I'm

<p style="text-align: right;">Page 222</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 sorry. I apologize.</p> <p>3 BY MR. QUANTON:</p> <p>4 Q. So, Mr. Hersh, what -- what I'm</p> <p>5 showing you --</p> <p>6 A. And what you're asking me, counselor,</p> <p>7 it's written there. What do you want me to</p> <p>8 say?</p> <p>9 Q. Well, I -- because we're -- we're</p> <p>10 talking past each other. So I'm showing you an</p> <p>11 email that's dated June 27 from Mr. Butowsky to</p> <p>12 you, and that email is asking you a question.</p> <p>13 And you said that you were answering a</p> <p>14 question, and I'm just -- I'm pointing out for</p> <p>15 the record that this email is forwarding a --</p> <p>16 an earlier email exchange --</p> <p>17 A. Oh.</p> <p>18 Q. -- from June 2.</p> <p>19 A. Oh, so I --</p> <p>20 Q. So the question I have is, do you</p> <p>21 recall whether you answered the June 27 email</p> <p>22 to -- that Mr. Butowsky sent you.</p> <p>23 A. Oh, I see. I looked -- I thought the</p> <p>24 answer was -- the June 1, I thought that was</p> <p>25 the answer to the June 27. I was wondering why</p>	<p style="text-align: right;">Page 223</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 it was so familiar. I don't -- I don't recall</p> <p>3 the email, and I -- I -- stop being hot listed.</p> <p>4 It doesn't sound -- I have no -- I don't recall</p> <p>5 it. I don't -- certainly don't recall</p> <p>6 answering it. I don't recall receiving it.</p> <p>7 I -- I do remember, as I said, he was testy.</p> <p>8 Q. Okay.</p> <p>9 A. Increasingly testy.</p> <p>10 Q. So now moving on to --</p> <p>11 THE WITNESS: I'm sorry, court</p> <p>12 reporter. I apologize. I -- I just</p> <p>13 want -- I'm -- I'm -- I'm muttering when</p> <p>14 I'm reading, and I shouldn't. I should</p> <p>15 keep my mouth shut, just quiet down.</p> <p>16 MR. QUANTON: Now showing what</p> <p>17 I've marked as DH18.</p> <p>18 (Exhibit No. DH18 was marked for</p> <p>19 identification.)</p> <p>20 THE WITNESS: Okay.</p> <p>21 MR. BOWMAN: The version of DH18</p> <p>22 you sent this morning is just a cover</p> <p>23 page.</p> <p>24 MR. QUANTON: So that must be a</p> <p>25 mistake on my end so we will go down to</p>
<p style="text-align: right;">Page 224</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 the next one. This is what I've marked</p> <p>3 as DH19.</p> <p>4 THE WITNESS: Okay.</p> <p>5 (Exhibit No. DH19 was marked for</p> <p>6 identification.)</p> <p>7 BY MR. QUANTON:</p> <p>8 Q. I'm -- just -- just for clarity, I</p> <p>9 believe there is another email that is relevant</p> <p>10 here, but in the interest of time I'm not going</p> <p>11 to try to find it. Obviously, there's some</p> <p>12 error in attaching it to the cover page so I'm</p> <p>13 just going to move on. I believe there's one</p> <p>14 more email. This is -- let me go ahead. This</p> <p>15 is DH19.</p> <p>16 A. Yes.</p> <p>17 Q. And so this is an email. Well, I'd</p> <p>18 like you to just look at this document and tell</p> <p>19 me if you recognize this.</p> <p>20 A. No. No, I mean, I'm looking at</p> <p>21 the -- I -- no, I don't. I don't -- I -- I --</p> <p>22 this came in February. No, I -- I was not</p> <p>23 paying much attention to him by this time so I</p> <p>24 probably erased it without even looking at it</p> <p>25 very much. You know --</p>	<p style="text-align: right;">Page 225</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 Q. All right.</p> <p>3 A. -- again, it had my FBI informant</p> <p>4 told me and all this stuff. I -- I -- I don't</p> <p>5 think I responded to this. I'm sure I didn't,</p> <p>6 but I don't know.</p> <p>7 MR. QUANTON: All right, I'm going</p> <p>8 to move on to DH21 [sic].</p> <p>9 (Exhibit No. DH20 was marked for</p> <p>10 identification.)</p> <p>11 BY MR. QUANTON:</p> <p>12 Q. Now, this is -- this is a bit longer.</p> <p>13 This is a -- I'm showing you what's been marked</p> <p>14 as DH20.</p> <p>15 A. Uh-huh.</p> <p>16 Q. And this is a -- an article by NPR</p> <p>17 dated August 1, 2017. I can -- I'm just going</p> <p>18 to scroll through this very briefly.</p> <p>19 There's -- let me ask you this. Just -- just</p> <p>20 from the title, do you recall this article?</p> <p>21 A. Folkenflik. Yes, I recall talking</p> <p>22 to -- I'm sure I read it, but I -- I don't</p> <p>23 remember it. But I remember talking to him.</p> <p>24 Q. Okay. And do you remember the</p> <p>25 content of your conversation with him?</p>

<p style="text-align: right;">Page 226</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 A. Yeah, it was -- it was about the</p> <p>3 story and -- and, yeah, it was about a -- I</p> <p>4 guess, a -- a lawsuit had evolved.</p> <p>5 Q. Your -- your recollection is you were</p> <p>6 talking about the -- the lawsuit that's</p> <p>7 referenced here?</p> <p>8 A. No, I just remember there was a</p> <p>9 lawsuit that came out of this case, this story.</p> <p>10 Am I not? Am I not right? I think that's</p> <p>11 right. I think there was a lawsuit that came</p> <p>12 out of it.</p> <p>13 Q. I'm just going to keep on scrolling</p> <p>14 here.</p> <p>15 A. Yeah, I'm reading it. Do you want me</p> <p>16 to go through? What -- what do you --</p> <p>17 Q. No, no, no. Just tell me if I'm</p> <p>18 going too fast for you.</p> <p>19 A. No. Oh, you're scrolling it?</p> <p>20 Q. I'm scrolling it, yeah.</p> <p>21 A. You're going too slow for me.</p> <p>22 Q. Okay. You're faster than that.</p> <p>23 A. I'm quick. I can go through. Okay,</p> <p>24 yeah, I see there's stuff on Herish.</p> <p>25 Q. Okay. So in this paragraph, in a --</p>	<p style="text-align: right;">Page 227</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 A. Yeah.</p> <p>3 Q. So in an interview this week, Herish</p> <p>4 sounds unconvinced. So you -- you recall</p> <p>5 speaking to Mr. Folkenflik --</p> <p>6 A. Yeah.</p> <p>7 Q. -- before this was -- before this</p> <p>8 article was published; right?</p> <p>9 A. Yeah. He called me at -- at my --</p> <p>10 hold on. Well, I'm just trying to -- I'm</p> <p>11 trying to -- I -- I'm missing the first -- I</p> <p>12 think you control it. I can't get this to</p> <p>13 move.</p> <p>14 Q. What do you want to do? Want to move</p> <p>15 it up?</p> <p>16 A. There's a -- I -- there's a -- the</p> <p>17 top of the paragraph. Okay. Well, in -- "In</p> <p>18 an interview this week, according to the</p> <p>19 transcript, Herish -- Ed Herish had an FBI source</p> <p>20 who confirmed the report on there." And then</p> <p>21 the next line, "In an interview this week,</p> <p>22 Herish shown that --"</p> <p>23 THE WITNESS: I'm -- I'm sorry.</p> <p>24 I'll speak slowly for the court</p> <p>25 reporter.</p>
<p style="text-align: right;">Page 228</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 THE REPORTER: Thank you.</p> <p>3 A. "According to the transcripts in the</p> <p>4 lawsuit, Butowsky said Herish had an FBI source</p> <p>5 who confirmed the report."</p> <p>6 Q. Mr. -- Mr. Herish, if you could just</p> <p>7 read to -- read to yourself, let me know when</p> <p>8 you've finished.</p> <p>9 A. Well, I -- I -- I -- I -- are you --</p> <p>10 are you controlling the scroll? No, I can</p> <p>11 scroll. Okay.</p> <p>12 Q. No, no, I'm -- I'm controlling the</p> <p>13 scroll. So let me scroll it down. Just read</p> <p>14 to yourself silently and let me know if you</p> <p>15 want me to scroll any further.</p> <p>16 A. Okay, I'm down to where it says 2 and</p> <p>17 2 make 45.</p> <p>18 Q. All right. So does this quote</p> <p>19 from -- that -- that is here in the article,</p> <p>20 does that appear accurate to you?</p> <p>21 A. Which quote?</p> <p>22 Q. Herish -- when Herish tells NPR on</p> <p>23 Monday, where you're quoted, do you -- do you</p> <p>24 think you were accurately quoted there?</p> <p>25 A. I'm not troubled by any of the</p>	<p style="text-align: right;">Page 229</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 quotes. I'm sure I was accurately quoted. I'm</p> <p>3 sure he probably tape recorded it, I would</p> <p>4 guess. The guy made it accurate. I think</p> <p>5 that's the appropriate thing to do. I think he</p> <p>6 told me he was going to do that. I don't</p> <p>7 remember, but I -- I like it when reporters --</p> <p>8 you know, obviously, I'm always sensitive to</p> <p>9 that. So go ahead. Yeah, I mean, Herish --</p> <p>10 Butowsky took 2 and 2, made 45. Okay.</p> <p>11 Q. And what -- what did you mean by that</p> <p>12 when you said Butowsky took 2 and 2 and made</p> <p>13 45? What did you mean by that?</p> <p>14 A. Had no basis for knowing. I had no</p> <p>15 basis for knowing, confirming what my FBI</p> <p>16 source said he heard secondhand, and from</p> <p>17 somebody who was not an FBI agent. And it</p> <p>18 was -- it was a -- it was a casual -- it was</p> <p>19 just a -- a casual chitchat. I'm -- I did go</p> <p>20 back and -- and I -- I didn't make notes about</p> <p>21 it. I had no notes about any of this. I never</p> <p>22 took a note on any of this, and it just was --</p> <p>23 that's what I remember saying. I -- I don't</p> <p>24 remember saying it, but it sounds like</p> <p>25 something I would say. I said 2 and 2. It's</p>

<p style="text-align: right;">Page 230</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 usually 44, but -- but that's okay.</p> <p>3 MR. QUAINTON: Okay. All right,</p> <p>4 we're going to move on to the next one.</p> <p>5 THE WITNESS: You're going to</p> <p>6 another file?</p> <p>7 MR. QUAINTON: Yes, I am.</p> <p>8 THE WITNESS: Okay.</p> <p>9 MR. QUAINTON: So do you see on</p> <p>10 your screen a document that's marked</p> <p>11 DH21?</p> <p>12 THE WITNESS: Yes, I do.</p> <p>13 (Exhibit No. DH21 was marked for</p> <p>14 identification.)</p> <p>15 BY MR. QUAINTON:</p> <p>16 Q. And you see I'm showing you an</p> <p>17 article from NPR dated August 16, 2017 --</p> <p>18 A. Is -- is --</p> <p>19 Q. -- titled --</p> <p>20 A. Didn't you just show me that article?</p> <p>21 Q. No. The article I just showed you</p> <p>22 was August 1, so this is a second article if</p> <p>23 you look at the date.</p> <p>24 A. Oh, I didn't --</p> <p>25 Q. It's August 16.</p>	<p style="text-align: right;">Page 231</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 A. Okay, yes.</p> <p>3 Q. And this is the title: "The Man</p> <p>4 Behind the Scenes in Fox News is Discredited."</p> <p>5 A. Yeah, okay.</p> <p>6 Q. And do you -- do you recall this</p> <p>7 article?</p> <p>8 A. No, I don't remember reading this at</p> <p>9 all.</p> <p>10 Q. Now --</p> <p>11 A. The picture, I remember.</p> <p>12 Q. Okay.</p> <p>13 A. I remember seeing a picture of him</p> <p>14 but I -- I -- I don't remember this one.</p> <p>15 Q. Okay. I think if we scroll down,</p> <p>16 there is a -- you are quoted here.</p> <p>17 A. Well, wait. I -- you're running past</p> <p>18 some stuff about me. Want to go back up?</p> <p>19 Q. Sure.</p> <p>20 A. It starts with -- all right, five</p> <p>21 days after the inauguration. All right, go</p> <p>22 ahead.</p> <p>23 Q. Do you want me to -- so does that --</p> <p>24 that refresh your recollection about when you</p> <p>25 had the conversation with Mr. Butowsky?</p>
<p style="text-align: right;">Page 232</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 A. Oh, about -- about when I had a</p> <p>3 conversation with Butowsky?</p> <p>4 Q. Yes.</p> <p>5 A. I -- I don't think it's that early,</p> <p>6 but that's okay. It could be.</p> <p>7 Q. I'm going to keep on scrolling down.</p> <p>8 A. I -- I -- I just don't know. Could</p> <p>9 be.</p> <p>10 Q. Just read this to yourself and tell</p> <p>11 me when -- if you want me to scroll it down.</p> <p>12 A. Wait, you're -- please, you're going</p> <p>13 too fast.</p> <p>14 Q. Oh, sorry.</p> <p>15 A. I'm looking carefully. I'm trying to</p> <p>16 figure out -- I wish you'd let me have control</p> <p>17 of the scroll.</p> <p>18 Q. Well, unfortunately, I can't do that.</p> <p>19 But I can try to make it as easy as possible.</p> <p>20 What would you like me to do?</p> <p>21 A. Just go up. "Because that did not</p> <p>22 happen" is at the top of the screen. I don't</p> <p>23 know what the sentence is before that. All</p> <p>24 right. Okay.</p> <p>25 Q. Want me to start back here at the</p>	<p style="text-align: right;">Page 233</p> <p>1 HERSH - CONFIDENTIAL</p> <p>2 top?</p> <p>3 A. Okay, hold on. May I ask a question?</p> <p>4 Q. No. If you would -- could just let</p> <p>5 me -- if you would like me to scroll it down</p> <p>6 for you so you could read totally --</p> <p>7 A. Because it says "the tape shows," and</p> <p>8 I don't think I knew about the tape in January.</p> <p>9 I would remember that. I don't think I knew</p> <p>10 the -- about the tape at the time of the</p> <p>11 inauguration, or a week after. There's</p> <p>12 something wrong with that timeline. I don't</p> <p>13 buy it. It's --</p> <p>14 Q. Just -- so what --</p> <p>15 A. Reporters make -- we all make</p> <p>16 mistakes, okay?</p> <p>17 Q. Just on that paragraph, Mr. Hersh,</p> <p>18 I -- I don't think this is -- this is saying,</p> <p>19 if you look at the one -- the -- the line, the</p> <p>20 fourth line of the paragraph beginning</p> <p>21 "Butowsky follows the lead."</p> <p>22 A. Yeah.</p> <p>23 Q. "And the audio recording obtained by</p> <p>24 NPR shows Hersh referring to insider source."</p> <p>25 So that is not saying anything about when --</p>

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1 HERSH - CONFIDENTIAL

2 that particular line doesn't say anything about

3 when the recording was made, it just says

4 when -- it just says that NPR obtained the

5 recording. The -- the first line --

6 MS. GOVERNSKI: Objection.

7 A. I -- I absolutely had no idea that --

8 what's the kid's name who wrote the story?

9 Folken -- what's his first name?

10 Q. Folkenflik.

11 A. Yeah, Folkenflik. I -- I don't think

12 he said I have heard a tape or there is a tape.

13 I would have known that. The story says it,

14 but I probably -- I'm -- I'm embarrassed to

15 tell you, I probably -- I don't -- I probably

16 didn't read it. I might have read it, but

17 I'm -- I, you know, would have come -- but I

18 don't -- was this broadcast, this -- this

19 particular piece, or was it just the story? I

20 think there was a -- there was a broadcast and

21 a story. I think the broadcast transcript I

22 remember reading, but if there was a story, I

23 probably didn't read it.

24 Q. Well, I think, Mr. Hersh, Meryl may

25 go over this tomorrow, but I believe you're

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1 HERSH - CONFIDENTIAL

2 A. I remember the photograph. I

3 remember a photograph of Butowsky, but I don't

4 remember the story. They were -- you know, by

5 this time, I was very uninterested in it.

6 Q. I -- I'm just focusing on the time

7 here. So the -- this article was August 16.

8 Do you see that?

9 A. Oh, and by this time, we know there's

10 a tape. I know the tape is out by then. The

11 tape -- when was the tape?

12 Q. Well, actually, don't -- don't

13 speculate. I'm going to ask you the questions.

14 A. I -- so I don't know when the tape

15 was. I don't remember.

16 Q. Is it --

17 A. Sometime in May, I thought.

18 Q. Well, I think if we go down to what

19 Mr. Folkenflik is saying, so if we go down to

20 that paragraph we were looking at earlier --

21 A. Uh-huh.

22 Q. -- "According to Folkenflik, Butowsky

23 speaks five days after Trump's inauguration

24 with the legendary investigative reporter

25 Seymour Hersh by telephone." So Folkenflik's

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1 HERSH - CONFIDENTIAL

2 correct. There is a -- an audio recording that

3 does not track this article. So these words, I

4 believe, are not in the audio recording of --

5 A. Oh.

6 Q. -- the story that's a companion audio

7 to this written piece.

8 A. Yeah, I -- I think what he had on

9 air, I remember that. I -- what he had on air,

10 he, I mean, he -- he certainly -- what's his

11 name, Folkenflik? I mean, he -- if he had told

12 me there's a tape of it that he was playing,

13 I -- I would have probably called Larry up and

14 tell him to hit him in the head. What is he

15 doing, making a private conversation -- okay.

16 Q. Yeah, so this is actually --

17 MS. GOVERNSKI: For the record, I

18 didn't have a chance to object to the

19 question, but I -- objection noted for

20 the record.

21 THE WITNESS: Okay, great.

22 BY MR. QUAINTON:

23 Q. So this article was dated August 16.

24 Do you recall that, Mr. Hersh? The article's

25 August 16. Do you see that?

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1 HERSH - CONFIDENTIAL

2 account is that you spoke to Mr. Butowsky five

3 days after the inauguration. Do you have any

4 reason to believe he's not accurate here?

5 A. Yeah, I don't think that's accurate.

6 MS. GOVERNSKI: Objection.

7 Q. Okay. And do you -- based on the --

8 to your -- the best of your recollection, had

9 you become aware of the existence of the audio

10 that we listened to before this article was

11 published?

12 A. If it was the article that came out

13 earlier, I -- I -- all I can say is something

14 you showed me 16 or 17 hours ago today

15 indicated that it was a May audio. It was done

16 in audio, I think. I think I saw that. I

17 mean, it was done in the spring. And if I'd

18 read this article, I would have -- I would have

19 been upset that I -- I think I would have --

20 my -- my -- I -- I -- I probably wouldn't have

21 done anything about it because I didn't care.

22 I mean, it was just sort of jetsam and flotsam.

23 But -- but I -- I -- if I ran into Folkenflik,

24 or whatever his name is, I'd say, why didn't

25 you tell me when you talked to me that you had

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1 a tape recording?

2 So I just -- the -- the date -- the

3 date he has of after of the inauguration is --

4 is totally wrong as far as I know. I mean,

5 I -- every instinct I have. But I can't -- I

6 don't really know, you know. I don't keep -- I

7 don't keep -- you know, I -- I certainly don't

8 keep notes of everybody who calls me, or make a

9 note on my calendar on stuff like that. I -- I

10 don't do anything like that. I don't do that

11 on my calendar for a lot of good reasons.

12 Q. Okay. We're almost done with this.

13 So could you just read two paragraphs? Read

14 them silently to yourself.

15 A. Which -- which two? May I ask?

16 Q. The two paragraphs, at the -- they

17 should be, sorry, the top of my screen but I

18 guess not the top of your screen. Again, it's

19 Butowsky tells Hersh.

20 A. Yes, okay.

21 Q. And then Hersh warns Butowsky.

22 A. Yeah, I've read it.

23 Q. Now, these quotations here, do these

24 appear to be quotations from the audio that we

25

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1 Q. And in the other article that we

2 read, which was dated August 1, you remembered

3 an interview with David Folkenflik.

4 A. Uh-huh.

5 Q. And that was the one in which he

6 quoted you as saying, you know, Butowsky took 2

7 plus 2 and made it 45. Do you recall that?

8 A. I -- I recall reading it, yes. I

9 recall talking to him. I don't remember

10 precisely what I said, but who would?

11 Q. Fair enough. My -- my question is,

12 did you have more than one interview with David

13 Folkenflik about the Seth Rich situation?

14 A. Almost sure it was one.

15 Q. So when he talks about "in an

16 interview with NPR" in this paragraph, he's

17 referring most likely to the interview you had

18 before the August 1 article; is that right?

19 MS. GOVERNSKI: Objection.

20 THE WITNESS: Yes, sir.

21 MR. BOWMAN: If you remember.

22 Don't speculate.

23 Q. Okay.

24 A. Again, I just -- I don't know how he

25

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1 spent most of today listening to?

2 A. Okay. I don't dispute that.

3 Q. All right. So just read the next

4 paragraph.

5 A. Which begins what?

6 Q. "In an interview with NPR."

7 A. Uh-huh. Now, this is after the

8 broadcast?

9 Q. I -- I don't know the answer to that,

10 Mr. Hersh. I believe that the broadcast and

11 the article were simultaneous, but I'm not

12 100 percent sure.

13 A. I will tell you I do remember the

14 photograph of Butowsky. I do remember that.

15 Skeptical, the official -- oh, excuse me.

16 Well, it's consistent with what I've testified

17 to. I was fishing for information from

18 Butowsky. Other than that --

19 Q. Well --

20 A. -- you know --

21 Q. -- if you can just let me ask the

22 questions, my -- my question is here, this

23 paragraph begins "in an interview with NPR."

24 A. Uh-huh.

25

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1 works, but it seems like he's a pretty serious

2 reporter, which is why I talked to him. And I

3 don't think he would write something he knew

4 not to be correct.

5 MR. QUAINTON: Okay, that's all I

6 have on this. So I think we're at the

7 one-hour mark that -- one other thing I

8 did want to -- did want to do, but I

9 don't know if Chad is going to --

10 there's a five -- there's a five-minute

11 audio that I would like to play, but --

12 would you object to that, Chad, or hold

13 me to that hard stop?

14 MR. BOWMAN: If you are telling me

15 that you need five more minutes and

16 that's it, we can accommodate five

17 minutes. But you're at the hour.

18 MR. QUAINTON: It's five minutes

19 and then no more than five minutes of

20 just questioning on it, I promise. Then

21 I'd be done with everything I planned to

22 do today, if that helps you.

23 MR. BOWMAN: I didn't catch that

24 last part. You're saying five more

25

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2 minutes and then another five minutes?

3 MR. QUAINTON: Well, I'd just like

4 to play the audio, and then I have just,

5 you know, one or two questions. I mean,

6 it's -- it's nothing. Literally should

7 not take me -- I could be two minutes if

8 you'd like.

9 MR. BOWMAN: Okay. Finish your

10 exam.

11 MR. QUAINTON: Okay. Just so we

12 are clear, for the record, this is what

13 I had marked as DH22, which DH22 just

14 had the -- the link to this episode. It

15 did not actually have the audio itself.

16 (Exhibit No. DH22 was marked for

17 identification.)

18 MR. QUAINTON: Can you hear that?

19 MR. BOWMAN: No.

20 THE WITNESS: I hear nothing.

21 MS. GOVERNSKI: No.

22 MR. QUAINTON: Now?

23 MR. BOWMAN: Still nothing.

24 MR. QUAINTON: Can you hear that?

25 Still nothing?

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1 HERSH - CONFIDENTIAL

2 you about. Folkenflik, who's the -- the

3 reporter speaking, at the very end says that

4 when you say "doesn't make it true," he adds on

5 "may never have happened," and he -- the

6 listener comes away with the impression that

7 your conversation with your source may never

8 have happened, that you may have been making

9 that up. That's an impression the reader --

10 the listener gets. And I'd just like to make

11 sure the record is clear. That would be a

12 totally false impression for the listener to

13 have, that there's any doubt that you had the

14 conversation with the source that we've spent

15 the last five hours discussing.

16 MR. BOWMAN: Objection.

17 MS. GOVERNSKI: I object to the

18 question on many forms, including to the

19 extent it is attempting to use discovery

20 in this case for other litigation.

21 MR. BOWMAN: Objection.

22 MR. QUAINTON: You can answer the

23 question.

24 MR. BOWMAN: If you can understand

25 the question, go ahead and answer it,

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1 HERSH - CONFIDENTIAL

2 THE WITNESS: I have a message

3 saying my internet connection is

4 unstable.

5 MR. QUAINTON: Oh, I see what I

6 did. I did the same -- I did the rookie

7 mistake. I didn't click share computer

8 sound.

9 (The clip was played.)

10 MR. QUAINTON: Can you hear this

11 now?

12 THE WITNESS: Yeah.

13 (The clip was played.)

14 MS. GOVERNSKI: I'll just object

15 for the record to the video for the same

16 reasons we've discussed today.

17 BY MR. QUAINTON:

18 Q. Mr. Hersh, do you recognize that

19 audio clip that I just played for you?

20 A. I don't think I've ever heard that

21 alleged five-minute clip, which sounded to me

22 more like 10.

23 Q. It was six minutes. So I'm not going

24 to go back into the substance, but just at the

25 very end, this is -- this is what I want to ask

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1 HERSH - CONFIDENTIAL

2 Mr. Hersh.

3 THE WITNESS: I -- I -- I can't

4 understand the question because the

5 premise to your question is illogical to

6 me. He's talking about -- it has to do

7 with my conversation. It -- I don't

8 think it goes to where you said it goes,

9 so I -- I really don't have an answer to

10 that question.

11 BY MR. QUAINTON:

12 Q. Let me try it again.

13 A. No, I'm -- I'm just telling you, may

14 never have happened. You know, I don't quite

15 understand why you would think that means that

16 the whole thing didn't happen.

17 Q. What's what -- that's all I want you

18 to confirm for me, that you are not saying and

19 never said --

20 A. I -- I didn't --

21 Q. -- that the conversation didn't

22 happen.

23 A. I'm not responsible for what somebody

24 else puts on the air, sir.

25 MR. BOWMAN: Counsel, you've

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1 HERSH - CONFIDENTIAL

2 examined him about the phone call. This

3 does seem to be aimed at discovery in

4 another case.

5 MR. QUANTON: It's actually not in

6 discovery in another case, it's

7 simply -- it's aimed at discovery in

8 this case. And I -- I don't view my

9 question as being confusing, it's

10 simply --

11 MS. GOVERNSKI: I would join

12 Mr. Bowman in his -- in his opinion.

13 And I also wonder what -- what possible

14 testimony Mr. Hersh could lend as to the

15 impression of readers to an article that

16 is directly at issue in another one of

17 Mr. Butowsky's lawsuits.

18 MR. QUANTON: I'm just trying to

19 get it clear that Mr. --

20 BY MR. QUANTON:

21 Q. Mr. Hersh, you -- you never said to

22 Mr. Folkenflik or anybody else that your

23 conversation with the trusted source may not

24 have happened.

25 MR. BOWMAN: Objection. Can you --

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1 HERSH - CONFIDENTIAL

2 MR. QUANTON: But I'm not asking

3 you --

4 THE WITNESS: I don't have any --

5 MR. QUANTON: I'm not asking

6 about --

7 MR. BOWMAN: Counsel, the witness

8 testified about the actual event, so you

9 can ask about the actual event. It's

10 not proper to ask about reasonable

11 understandings of articles that he

12 didn't write that are at issue in other

13 cases.

14 MR. QUANTON: I -- I understand

15 that, and I'm not doing that. If you'd

16 just listen to the question I am asking,

17 and I -- I will withdraw the question

18 about what a reasonable listener might

19 take away from that, which is a fair

20 objection.

21 BY MR. QUANTON:

22 Q. My question is: Did you ever say to

23 Mr. Folkenflik that the conversation with your

24 trusted source may never have happened? Did

25 you ever make that statement to him?

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2 can you rephrase that?

3 MS. GOVERNSKI: Objection.

4 MR. QUANTON: You can just read it

5 back, and you can -- the objection as to

6 leading can stand. And if you could,

7 the reporter could just read that

8 question back, then I think we can be

9 done.

10 THE WITNESS: I just -- I -- I

11 can't understand the premise of your

12 question. It was -- it was a broadcast

13 or a podcast by somebody else. I -- I

14 don't -- I -- I don't understand the

15 premise of it. I don't know why -- I

16 don't understand why I have -- I should

17 have an opinion on that question. I

18 don't --

19 MR. QUANTON: Wasn't it a --

20 THE WITNESS: -- have one.

21 MR. QUANTON: Mr. Hersh, it wasn't

22 a question of opinion.

23 THE WITNESS: I have no idea what

24 the average reader would hear, if they

25 hear that thing, I -- I don't, so I --

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1 HERSH - CONFIDENTIAL

2 MR. BOWMAN: Go ahead and answer

3 that question.

4 THE WITNESS: I beg your pardon? I

5 should answer that question?

6 MR. BOWMAN: Yes, to your memory.

7 A. I have no memory of what I said to

8 Mr. Folkenflik or not. I mean, I -- I --

9 it's -- it's -- I just don't -- I -- I don't

10 think he's suggesting I did say that, is he?

11 If he is, that's news to me. Sounds like a

12 comment he made. The only thing I can tell you

13 is -- is it's a radio -- is it a radio

14 broadcast or was it a podcast or what? What

15 was it?

16 Q. It's a podcast.

17 A. Podcast? Was -- was the -- was it

18 Folkenflik who said may never happen, or was it

19 Isikoff to me saying it?

20 Q. That was Folkenflik.

21 A. I can't help you, counselor. I --

22 Q. All right.

23 A. To my memory, I've -- I -- I don't

24 think I've ever denied a conversation that's on

25 tape. It's --

1	HERSH - CONFIDENTIAL	Page 250
2	MR. QUAINTON: Okay, thank you.	
3	Let's -- I'm done for now. I'm done,	
4	actually not for now. I'm done. And	
5	thank you very much for your patience	
6	and your time, Mr. Hersh. And I don't	
7	know if anybody has any -- I guess,	
8	Meryl, you don't have any cross now,	
9	right?	
10	MS. GOVERNSKI: No. It's -- it's	
11	way beyond time and so I'll be reserving	
12	my cross for tomorrow, and perhaps	
13	closing on -- on cross. And for the	
14	record -- well, we can talk about this	
15	off the record.	
16	MR. QUAINTON: So, Mr. Hersh,	
17	you're free to go. And thank you again.	
18	THE WITNESS: You're welcome.	
19	Bye-bye, sir.	
20	THE VIDEOGRAPHER: Time is 5:01	
21	p.m. We're off the record.	
22		
23	(Deposition adjourned at 5:01 p.m.)	
24		
25		

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2	C E R T I F I C A T E	
3	DISTRICT OF COLUMBIA:	
4	I, MARY ANN PAYONK, shorthand reporter,	
5	do hereby certify that the witness whose	
6	deposition is hereinbefore set forth was sworn	
7	by agreement of all parties, the proceedings	
8	were reported stenographically by me, and that	
9	this transcript is a true, correct, and full	
10	record of the testimony given.	
11	I further certify that I am not related	
12	to any of the parties to this action by blood	
13	or by marriage, and that I am in no way	
14	interested in the outcome of this matter.	
15	IN WITNESS WHEREOF, I have hereunto set	
16	my hand this 27th day of July, 2020.	
17	<i>Mary Ann Payonk</i>	
18		
19	MARY ANN PAYONK, Shorthand Reporter	
20	VA:219251 8/31/2022; DC:08/31/2020; CA:13431	
21		
22		
23		
24		
25		

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14	- INDEX TO CERTIFIED QUESTIONS -		
15	Page/Line	Text of the Question	
16	56 17	And are you still working on a	
17		story related to Russians spying on	
18		the Democrats?	
19	75 5	And did you attempt to contact	
20		any of the people that I've just	
21		mentioned, anybody on his team,	
22		anybody at the Department of	
23		Justice, anybody at the	
24		Metropolitan Police Department	
25		with --	

<p>1 HERSH - CONFIDENTIAL Page 254</p> <p>2 - INDEX TO CERTIFIED QUESTIONS -</p> <p>3 Page/Line Text of the Question</p> <p>4 76 9 Was the person to whom you</p> <p>5 spoke in the CIA?</p> <p>6 76 14 Was the person to whom you</p> <p>7 spoke at the NSA?</p> <p>8 76 20 Can you disclose the name of</p> <p>9 the person with whom you spoke?</p> <p>10 174 22 So my question is, what did you</p> <p>11 mean by "I can tell you right now</p> <p>12 Maddis knows what I know"?</p> <p>13</p> <p>14 <<INDEX END>></p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 HERSH - CONFIDENTIAL Page 255</p> <p>2 NAME OF CASE: Rich vs. Butowsky</p> <p>3 DATE OF DEPOSITION: July 15, 2020</p> <p>4 DEPONENT: SEYMOUR M. HERSH</p> <p>5 1. To clarify the record.</p> <p>6 2. To conform to the facts.</p> <p>7 3. To correct transcription error.</p> <p>8</p> <p>9 Page _____ Line _____ Reason _____</p> <p>10 From _____ to _____</p> <p>11 Page _____ Line _____ Reason _____</p> <p>12 From _____ to _____</p> <p>13</p> <p>14 Page _____ Line _____ Reason _____</p> <p>15 From _____ to _____</p> <p>16 Page _____ Line _____ Reason _____</p> <p>17 From _____ to _____</p> <p>18</p> <p>19 _____</p> <p>20 SEYMOUR M. HERSH</p> <p>21 SUBSCRIBED AND SWORN TO BEFORE ME</p> <p>22 THIS _____ DAY OF _____, 2020.</p> <p>23 _____</p> <p>24 (Notary Public)</p> <p>25 My Commission expires: _____</p>

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